LEGISLATIVE ASSEMBLY
OF ONTARIO

FOURTH SESSION OF THE TWENTY-NINTH PARLIAMENT

BILLS

AS INTRODUCED IN THE HOUSE
TOGETHER WITH
REPRINTS AND THIRD READINGS

SESSION

MARCH 5th, 1974 to FEBRUARY 14th, 1975

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4TH SESSION, 29TH LEGISLATURE, ONTARIO
23 ELIZABETH II, 1974

An Act to amend The Ontario Water Resources Act

THE HON. W. NEWMAN
Minister of the Environment

TORONTO
PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO

Explanatory Notes

Section 1.—Subsection 1. The definition of cost of a project under agreements entered into on or after April 1, 1974 is extended to include financing charges after construction.

BILL 35 **1974**

An Act to amend The Ontario Water Resources Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) Clause *g* of section 1 of *The Ontario Water Resources Act*, being chapter 332 of the Revised Statutes of Ontario, 1970, as amended by the Statutes of Ontario, 1972, chapter 1, section 70, is repealed and the following substituted therefor: s. 1 (g), re-enacted

(*g*) "cost" means,

(i) in relation to a project under an agreement entered into before the 1st day of April, 1974, the cost thereof as determined by the Minister and includes interest during construction and such engineering fees and other charges and expenses in connection with construction as the Minister may determine, and such proportion of discounts, commissions and other charges and expenses in respect of the issue of debentures by the Crown as the Minister in his discretion may allocate to the project, or

(ii) in relation to a project under an agreement entered into on or after the 1st day of April, 1974, the cost thereof as determined by the Minister and includes such engineering fees and other charges and expenses in connection with construction as the Minister may determine and such financing costs applicable to the project as the Treasurer may determine and the Minister in his discretion may allocate to the project.

s. 1 (*ia*), re-enacted; s. 1 (*oa*), repealed

(2) Clauses *ia* and *oa* of the said section 1, as enacted by the Statutes of Ontario, 1972, chapter 1, section 70, are repealed and the following substituted therefor:

(*ia*) "Director" means a Director appointed under section 8.

s. 1, amended

(3) The said section 1, as amended by the Statutes of Ontario, 1972, chapter 1, section 70 and 1973, chapter 90, section 1, is further amended by adding thereto the following clause:

(*qa*) "Treasurer" means the Treasurer of Ontario and Minister of Economics and Intergovernmental Affairs.

R.S.O. 1970, c. 332, amended

2. The said Act, as amended by the Statutes of Ontario, 1972, chapter 1, section 70 and 1973, chapter 90, is further amended by,

(*a*) striking out "the Executive Director, Water Supply and Pollution Control, of the Ministry,

(i) where it occurs in the first instance in each section set out in Column 2 of the following Table and inserting in lieu thereof in each such instance "a Director", and

(ii) where it occurs in the second and subsequent instances in each section set out in Column 3 of the following Table and inserting in lieu thereof in each such instance "the Director".

Table 1

Column 1 Item	Column 2 Section	Column 3 Section
1	17 (1*b*)	
2	33 (1)	33 (1)
3	34 (1)	34 (1)
4	34 (2)	
5	41 (1)	41 (1)
6	41 (4)	41 (4)
7	41 (5) (*a*)	
8	41 (5) (*b*)	
9	41 (6)	41 (6)

Subsections 2 and 3. Self-explanatory.

SECTION 2. The amendments are complementary to new section 8 of the Act.

Table 1—*Continued*

Column 1 Item	Column 2 Section	Column 3 Section
10	41 (7)	
11	41 (8)	
12	42 (1)	42 (1)
13	42 (4)	42 (4)
14	42 (5) (*a*)	
15	42 (5) (*b*)	
16	43 (1)	43 (1)
17	43 (3)	
18	43 (4)	43 (4)
19	43 (5)	
20	43 (11)	
21	43 (12)	
22	44 (1)	44 (1)
23	44 (3)	44 (3)
24	44 (4)	
25	44 (5)	
26	45	
27	49	49
28	50 (1)	
29	50 (2)	
30	51 (1)	51 (1)
31	62 (1) (*n*)	
32	69 (2)	
33	70 (1)	70 (1);

(*b*) striking out "the Executive Director, Water Resources, of the Ministry",

(i) where it occurs in the first instance in each section set out in Column 2 of the following Table and inserting in lieu thereof in each such instance "a Director", and

(ii) where it occurs in the second and subsequent instances in each section set out in Column 3 of the following Table and inserting in lieu thereof in each such instance "the Director".

Table 2

Column 1 Item	Column 2 Section	Column 3 Section
1	37 (3)	
2	37 (4)	37 (4)
3	37 (6)	
4	37 (7)	37 (7)
5	37 (8)	
6	39 (1)	
7	39 (2)	
8	39 (3)	
9	40 (1)	
10	40 (2)	
11	40 (4)	
12	40 (5)	
13	62 (1) (*q*);	

(*c*) striking out "the Assistant Deputy Minister, Water Management, of the Ministry",

(i) where it occurs in the first instance in each section set out in Column 2 of the following Table and inserting in lieu thereof in each such instance "a Director", and

(ii) where it occurs in the second and subsequent instances in each section set out in Column 3 of the following Table and inserting in lieu thereof in each such instance "the Director".

Table 3

Column 1 Item	Column 2 Section	Column 3 Section
1	3 (8)	
2	61 (2)	61 (2)
3	61 (3)	
4	61 (4)	61 (4)
5	61 (5)	61 (5)
6	61 (7)	61 (7)
7	61 (8)	
8	61 (10)	
9	61 (14);	

(*d*) striking out "the Assistant Deputy Minister, Water Management, the Executive Director, Water Sup-

SECTION 3.—Subsection 1. The amendment is complementary to new section 8 of the Act.

Subsection 2. The re-enactment of section 3 (5) of the Act is complementary to new section 8 of the Act and for the purpose of separating responsibility in respect of the regulations.

ply and Pollution Control, or the Executive Director, Water Resources, of the Ministry" where they occur in the sections set out in the following Table and inserting in lieu thereof in each instance "a Director".

Table 4

Item	Section
1	9*a* (10)
2	9*a* (14)
3	74
4	79 (1);

(*e*) striking out "Minister" where it occurs in each of the sections set out in the following Table and inserting in lieu thereof in each instance "Treasurer".

Table 5

Item	Section
1	53 (4)
2	56 (4)
3	61 (11)
4	61 (12)
5	61 (14).

3.—(1) Subsection 4 of section 3 of the said Act, as re-enacted by the Statutes of Ontario, 1972, chapter 1, section 70, is amended by inserting after "reference" in the first line "to the Commission" and by striking out "the Assistant Deputy Minister, Water Management, Executive Director, Water Supply and Pollution Control or the Executive Director, Water Resources, of the Ministry" in the fourth, fifth, sixth, seventh and eighth lines and inserting in lieu thereof "a Director". s. 3 (4), amended

(2) Subsection 5 of the said section 3 is repealed and the following substituted therefor: s. 3 (5), re-enacted

(5) A reference to the Commission in Regulation 644 of Revised Regulations of Ontario, 1970, shall be deemed to be a reference to a Director. Reference in regulation

(5*a*) A reference to the Commission in Regulation 647 of Revised Regulations of Ontario, 1970, shall be deemed to be a reference to the Minister. Idem

s. 3 (9), amended

(3) Subsection 9 of the said section 3 is amended by striking out "Executive Director, Water Supply and Pollution Control or the Executive Director, Water Resources or the Assistant Deputy Minister, Water Management, of the Ministry" in the sixth, seventh, eighth and ninth lines and inserting in lieu thereof "Director".

s. 5, repealed

4. Section 5 of the said Act, as amended by the Statutes of Ontario, 1972, chapter 1, section 70, is repealed.

s. 8, enacted

5. The said Act is further amended by adding thereto the following section:

Appointment of Directors by Minister

8.—(1) The Minister shall appoint in writing such employees of the Ministry as he considers necessary as Directors in respect of such sections of this Act and in respect of such of the regulations or sections thereof as are set out in the appointments.

Limitations

(2) The Minister, in an appointment pursuant to subsection 1, may limit the authority of a Director in such manner as the Minister considers necessary or advisable.

s. 9*a* (11), re-enacted

6. Subsection 11 of section 9*a* of the said Act, as enacted by the Statutes of Ontario, 1972, chapter 1, section 70, is repealed and the following substituted therefor:

When Hearing Board to hold public hearing

(11) Upon receipt of notice from a Director referred to in subsection 10, the Hearing Board shall hold a public hearing with respect to the subject-matter of the notice and shall report thereon to the Director.

ss. 12, 13, repealed

7. Sections 12 and 13 of the said Act, as re-enacted by the Statutes of Ontario, 1972, chapter 1, section 70, are repealed.

s. 17 (1) (*f*), amended

8. Clause *f* of subsection 1 of section 17 of the said Act is amended by striking out "and to charge fees in respect thereof" in the third and fourth lines.

s. 20 (1), amended

9. Subsection 1 of section 20 of the said Act, as amended by the Statutes of Ontario, 1972, chapter 1, section 70, is further amended by striking out "and, except as provided in subsection 3, the Crown is liable for any damage occasioned thereby" in the ninth, tenth and eleventh lines and in the amendment of 1972.

ss. 24, 25, repealed

10. Sections 24 and 25 of the said Act, as amended by the Statutes of Ontario, 1972, chapter 1, section 70, are repealed.

Subsection 3. Complementary to new section 8 of the Act.

SECTION 4. The repeal is complementary to the amendment of sections 53 (1), 57 (1), 57*a* and 58 (4, 5). All revenue with respect to projects will be paid to the Treasurer of Ontario and all expenditures with respect to projects will be paid by the Treasurer.

SECTION 5. Self-explanatory.

SECTION 6. The amendment is complementary to new section 8 of the Act.

SECTION 7. Section 12 of the Act required employees entrusted with the custody or control of money to give security as provided in *The Public Officers Act*.

Section 13 of the Act prescribed the fiscal year of the Ministry for the purpose of agreements with municipalities. This can now be determined in the agreements.

SECTION 8. The amendment is complementary to re-enacted section 76 of the Act.

SECTION 9. Section 20 (1) of the Act authorizes the Minister and his employees and agents to enter lands or buildings to make examinations and investigations. Under the amendment the liability of the Crown for the acts of the Minister, his employees and agents will revert to the liability that exists under the common law. Section 20 (3) of the Act requires the restoration of any lands or buildings that are disturbed by the exercise of the powers in section 20 (1) of the Act.

SECTION 10. The repeal is complementary to the amendment of sections 53 (1), 57 (1), 57*a* and 58 (4, 5). All revenue with respect to projects will be paid to the Treasurer of Ontario and all expenditures with respect to projects will be paid by the Treasurer.

SECTION 11. Section 26 of the Act relates to the functions of the Minister which were carried out by the former Ontario Water Resources Commission with respect to the issue of debentures by it. The section is no longer required as all financing will be carried out by the Treasurer of Ontario.

SECTION 12. Section 27 of the Act relates to the issue of debentures by the former Ontario Water Resources Commission.

SECTIONS 13 AND 14. Complementary to new section 8 of the Act.

SECTION 15. The amendment corrects a reference within section 37 of the Act.

SECTION 16. Complementary to new section 8 of the Act.

11. Section 26 of the said Act, as re-enacted by the Statutes of Ontario, 1972, chapter 1, section 70, is repealed. s. 26, repealed

12. Section 27 of the said Act is repealed. s. 27, repealed

13. Subsection 5 of section 32 of the said Act, as amended by the Statutes of Ontario, 1972, chapter 1, section 70, is further amended by adding after "Ministry" in the amendment of 1972 "or a Director". s. 32 (5), amended

14. Subsection 1 of section 36 of the said Act, as re-enacted by the Statutes of Ontario, 1972, chapter 1, section 70, is repealed and the following substituted therefor: s. 36 (1), re-enacted

(1) An area may be defined by a Director that includes a source of public water supply, Area defined for protection of public water supply

(*a*) wherein no person shall swim or bathe; or

(*b*) wherein no material of any kind that may impair the quality of water therein shall be placed, deposited, discharged or allowed to remain; or

(*c*) wherein no act shall be done and no water shall be taken that may unduly diminish the amount of water available in such area as a public water supply,

and thereupon the municipality or person who has a right to use the water from such source for the purpose of a public water supply shall give notice of the area so defined by publication, posting or otherwise as the Director considers necessary for the protection of the source of public water supply.

15. Clause *a* of subsection 8 of section 37 of the said Act is amended by striking out "2" and inserting in lieu thereof "3". s. 37 (8) (*a*), amended

16. Subsection 3 of section 41 of the said Act, as amended by the Statutes of Ontario, 1972, chapter 1, section 70, is repealed and the following substituted therefor: s. 41 (3), re-enacted

(3) Where any person undertakes or proceeds with the establishment of any water works, or the extension of or change in any existing water works, without having first obtained the approval of a Director, a Director may order the person or his successor or assignee to afford at his own expense such facilities as the Director considers necessary for the investigation of the works and the Powers of Director, where water works undertaken without approval

source of water supply and may direct such changes to be made in the source of water supply and in the works as the Director considers necessary, and any changes directed by the Director to be made in the works shall be carried out by the person or his successor or assignee at his own expense.

s. 42 (3), re-enacted

17. Subsection 3 of section 42 of the said Act, as amended by the Statutes of Ontario, 1972, chapter 1, section 70, is repealed and the following substituted therefor:

Powers of Director, where sewage works under taken without approval

(3) Where any person undertakes or proceeds with the establishment of any sewage works, or the extension of or any change in any existing sewage works, without having first obtained the approval of a Director, a Director may order the person or his successor or assignee to afford at his own expense such facilities as the Director considers necessary for the investigation of the works and the location of the discharge of effluent and may direct such changes to be made in the location of the discharge of effluent and in the works as the Director considers necessary, and any changes directed by the Director to be made in the works shall be carried out by the person or his successor or assignee at his own expense.

s. 48, re-enacted

18. Section 48 of the said Act, as amended by the Statutes of Ontario, 1972, chapter 1, section 70, is repealed and the following substituted therefor:

Construction or operation of approved sewage works by statutory authority

48. Sewage works that are being or have been constructed, maintained or operated with the approval of the former Department of Health, the Commission, the Executive Director, Water Supply and Pollution Control of the Ministry or of a Director and in accordance with the terms and conditions imposed in any order, direction, report or regulation of the former Department of Health, the Commission, the Minister of Health, the Executive Director, Water Supply and Pollution Control of the Ministry, a Director or the Board under the authority of this Act or any predecessor of any provision of this Act, so long as the sewage works are being so constructed or are so constructed, maintained or operated, shall be deemed to be under construction, constructed, maintained or operated by statutory authority.

s. 51 (3), re-enacted

19. Subsection 3 of section 51 of the said Act, as amended by the Statutes of Ontario, 1972, chapter 1, section 70, is repealed and the following substituted therefor:

Power of Director to implement report

(3) Where the municipality fails to do every act and thing in its power to implement a report made to it

SECTION 17. Complementary to new section 8 of the Act.

SECTION 18. The amendment is complementary to new section 8 of the Act.

SECTION 19. Complementary to new section 8 of the Act.

SECTION 20. The amendment enables the Minister to determine the method of financing as well as the terms and conditions for the provision and operation of water works or sewage works.

SECTION 21. The amendments restrict the financing of projects entered into before April 1, 1974, to a sinking fund basis and are also complementary to new section 8 of the Act.

under subsection 1 forthwith after receipt of the report, and the time for taking an appeal has passed or there has been final disposition of an appeal by which the report is confirmed or altered, the Director, with the approval of the Board, may direct that whatever is necessary to implement the report or the report as confirmed or altered be done at the expense of the municipality, and the Minister may recover the expense incurred in doing it, with costs, by action in a court of competent jurisdiction, as a debt due to the Crown by such municipality.

20. Clause *b* of subsection 2 of section 52 of the said Act, as amended by the Statutes of Ontario, 1972, chapter 1, section 70, is repealed and the following substituted therefor: s. 52 (2) (*b*), re-enacted

(*b*) a statement of the terms and conditions including the method of financing as determined by the Minister upon which the Minister will complete and operate the project; and

21.—(1) Subsection 1 of section 53 of the said Act, as re-enacted by the Statutes of Ontario, 1972, chapter 1, section 70, is amended by, s. 53 (1), amended

(*a*) inserting after "52" in the second line "before the 1st day of April, 1974";

(*b*) striking out "Minister" in the third line and inserting in lieu thereof "Treasurer"; and

(*c*) striking out "Assistant Deputy Minister, Water Management, of the Ministry" in the seventh and eighth lines and by striking out "Assistant Deputy Minister, Water Management" in the sixteenth and seventeenth lines and inserting in lieu thereof in each instance "Minister".

(2) Subsections 2 and 3 of the said section 53, as amended by the Statutes of Ontario, 1972, chapter 1, section 70, are repealed and the following substituted therefor: s. 53 (2, 3), re-enacted

Interest and expenses of debt service

(2) In respect of agreements under section 52 entered into after the 31st day of December, 1965 and before the 1st day of April, 1974, the interest and expenses of debt service that would be payable by the Commission referred to in clause *a* of paragraph 1 of subsection 1 shall, in each year during the currency of the agreement, be the

amount calculated by applying the average rate of such interest and expenses as would have been payable to the Treasurer in respect of the project.

Annual adjustment of payments

(3) The Minister shall annually adjust and apportion among the respective municipalities the sums payable to the Treasurer by such municipalities under subsection 1.

s. 54 (1, 3), re-enacted

22. Subsections 1 and 3 of section 54 of the said Act, as amended by the Statutes of Ontario, 1972, chapter 1, section 70, are repealed and the following substituted therefor:

Sewer rates and water works rates

(1) The council of a municipality that has entered into or proposes to enter into an agreement with the Crown under section 52 may by by-law, subject to the approval of the Board, provide for imposing upon owners or occupants of land who derive or will or may derive a benefit from the project a sewer rate or water works rate, as the case may be, sufficient to pay the whole or such portion as the by-law may specify of the annual payments to the Treasurer required to be made,

(*a*) where the agreement is or has been entered into before the 1st day of April, 1974, under clause *a* of paragraph 1 and paragraph 2 of subsection 1 of section 53; or

(*b*) where the agreement is entered into on or after the 1st day of April, 1974, under the agreement for the cost of the project,

and, with the like approval, such by-law may from time to time be amended or repealed.

. . . . .

Sewage service rate and water service rate

(3) The council of a municipality that has entered into or proposes to enter into an agreement with the Crown under section 52 may by by-law provide for imposing upon owners or occupants of land from which sewage is received, treated or disposed of or to which water is supplied through or by the project a sewage service rate or water service rate, as the case may be, sufficient to pay the whole or such portion as the by-law may specify of the annual payments to the Treasurer required to be made,

(*a*) where the agreement is or has been entered into before the 1st day of April, 1974, under clauses *b* and *c* of paragraph 1 of subsection 1 of section 53; or

SECTION 22 Complementary to the amendment of section 53 of the Act.

SECTION 23. The reference to agreements entered into before the 1st day of April, 1974 is complementary to the amendments to section 53 of the Act. The references to the Treasurer are complementary to new sections 57*a*, 58 and 59 of the Act.

(*b*) where the agreement is entered into on or after the 1st day of April, 1974, under the agreement for,

(i) the total cost to the Crown in each year of the operation, supervision, maintenance, repair, administration and insurance of the project, and

(ii) the total amount in each year placed by the Minister to the credit of any reserve account established under the agreement for the project.

23.—(1) Subsections 1 and 2 of section 56 of the said Act, as amended by the Statutes of Ontario, 1972, chapter 1, section 70, are repealed and the following substituted therefor: s. 56 (1, 2), re-enacted

(1) As soon as practicable in each calender year, and in any event not later than the 15th day of February, the Minister shall estimate the respective amounts payable to the Treasurer in such calendar year by each of the municipalities having agreements with the Crown under section 52 entered into before the 1st day of April, 1974 and shall by his precept directed to each municipality require such municipality to pay to the Treasurer on the dates specified in the agreement the sums so payable by each municipality and the municipality shall make payment to the Treasurer accordingly, but in the calendar year in which occurs the date of completion of the project the estimate by the Minister may be made and the precept of the Minister may be delivered at any time in such year as the Minister may determine and the payment or payments by the municipality shall be made at such time or times as the Minister may require. When payments to be made

(2) At the end of each calendar year, the actual sums payable by each municipality to the Treasurer for such year for the purposes aforesaid shall be ascertained by the Minister and the Minister shall inform the municipality of the amount owing to or by it and such amount shall be deducted from or added to the first payment to be made by the municipality in the next calendar year. Adjustment

(2) Subsection 5 of the said section 56, as amended by the Statutes of Ontario, 1972, chapter 1, section 70, is further amended by striking out "Minister" in the amendment of 1972 and inserting in lieu thereof "Treasurer" and by inserting after "agreement" in the second line "entered into under section 52". s. 56 (5), amended

s. 57 (1, 2), re-enacted

24.—(1) Subsections 1 and 2 of section 57 of the said Act, as amended by the Statutes of Ontario, 1972, chapter 1, section 70, are repealed and the following substituted therefor:

Reserve accounts

(1) The Minister may establish and maintain a reserve account in respect of each project under section 52,

(*a*) to provide for renewals and replacements in respect of the project;

(*b*) to provide for contingencies in respect of such project; and

(*c*) to provide for capital expenditures for the improvement of the project in relation to its operation and appearance,

and for such purposes may place to the credit of or charge to such reserve accounts such amounts as may in the opinion of the Minister be sufficient therefor.

When moneys may be expended in respect of another project

(2) Notwithstanding subsection 1, where a reserve account has been established in respect of a project, the Minister may, in respect of any other project for the same municipality, charge to such reserve account such amounts as in the opinion of the Minister may be sufficient therefor for any of the purposes mentioned in clauses *a*, *b* and *c* of subsection 1.

s. 57 (3, 4), repealed

(2) Subsections 3 and 4 of the said section 57, as amended by the Statutes of Ontario, 1972, chapter 1, section 70, are repealed.

s. 57*a*, enacted

25. The said Act is further amended by adding thereto the following section:

Ministry of the Environment Reserve Fund

57*a*.—(1) All amounts heretofore placed and remaining or hereafter placed to the credit of all reserve accounts under any agreements under this Act shall be deposited with the Treasurer to the credit of a special consolidated account in the Consolidated Revenue Fund to be called "Ministry of the Environment Reserve Account" and the interest applicable in each year to the consolidated account as determined by the Treasurer shall be allocated and credited by the Minister at the end of each year to each reserve account proportionately having regard to the respective balances from time to time remaining to the credit of the respective reserve accounts.

SECTION 24. Complementary to new sections 57*a*, 58 and 59 of the Act and to the repeal of section 5 of the Act.

SECTION 25. New sections 57*a* and 58 of the Act set up accounts in the Consolidated Revenue Fund to replace the Ontario Water Resources Reserve Account and the Ontario Water Resources Debt Retirement Account that were under the control of an investment committee.

SECTION 26. See Expanatory Note to section 25 of the Bill.

(2) The accounts of the Minister with respect to the reserve accounts referred to in subsection 1 shall be kept so as to exhibit at all times the amounts placed to the credit of each reserve account, the interest credited thereon and the payments made in respect thereof. Idem

26. Section 58 of the said Act, as amended by the Statutes of Ontario, 1972, chapter 1, section 70, is repealed and the following substituted therefor: s. 58. re-enacted

58.—(1) All amounts heretofore placed and remaining or hereafter placed to the credit of all municipalities with respect to all moneys received from the municipalities under paragraph 2 of subsection 1 of section 53 shall be deposited with the Treasurer to the credit of a special consolidated account in the Consolidated Revenue Fund to be called "Ministry of the Environment Debt Retirement Account" and that part of the amounts so credited as is attributable to each project shall remain as a credit in the Ministry of the Environment Debt Retirement Account until the expiration of the period of years during which payments are required to be made in respect of such project under paragraph 2 of subsection 1 of section 53. Ministry of the Environment Sinking Fund

(2) The interest applicable in each year to the consolidated account as determined by the Treasurer shall be allocated and credited by the Minister at the end of each year to the respective projects proportionately having regard to the respective balances in the consolidated account from time to time attributable to such projects and the accounts of the Minister with respect to such projects shall be kept so as to exhibit at all times the amounts placed to the credit of each project, the interest credited thereon and the payments made in respect thereof. Idem

(3) If at any time the amount in the consolidated account attributable to any project is, in the opinion of the Minister, sufficient with the further estimated interest thereon to form at the expiration of the period of years referred to in paragraph 2 of subsection 1 of section 53 an amount equal to the cost of the project, the Minister, subject to subsection 4 of this section and with the consent of the Treasurer, may authorize the municipality or municipalities with whom the Crown has an agreement in respect of such project to discontinue any further payments under paragraph 2 of subsection 1 of section 53. Discontinuance of further payments

(4) If at the expiration of such period of years the amount in the consolidated account attributable to any project, Excess or deficiency

(*a*) is in excess of the cost of the project, the Treasurer shall within one year thereafter repay to such municipality or municipalities the amount of such excess; or

(*b*) is less than the cost of the project, the municipality or municipalities shall, within one year thereafter, pay to the Treasurer the amount of such deficiency.

Discharge of indebtedness to Province

(5) Notwithstanding any other provision of this Act, the Treasurer may at any time, upon the request of the Minister, pay to the Province out of the Ministry of the Environment Debt Retirement Account any sum attributable to any project in payment or part payment of the amount owing to the Crown for the cost of the project.

s. 59, re-enacted

27. Section 59 of the said Act, as amended by the Statutes of Ontario, 1972, chapter 1, section 70, is repealed and the following substituted therefor:

Ontario Water Resources Reserve and Debt Retirement Accounts

59. All moneys in the Ontario Water Resources Reserve Account and the Ontario Water Resources Debt Retirement Account immediately before this section comes into force and all investments derived from moneys at any time in those accounts vest in the Crown and the Crown is bound by the liabilities in respect of such moneys and investments.

s. 62 (1) (*g*), amended

28.—(1) Clause *g* of subsection 1 of section 62 of the said Act, as amended by the Statutes of Ontario, 1972, chapter 1, section 70, is further amended by striking out "Executive Director, Water Supply and Pollution Control, of the Ministry" in the amendment of 1972, and inserting in lieu thereof "Minister".

s. 62 (1) (*j*), amended

(2) Clause *j* of subsection 1 of the said section 62 is amended by inserting after "operate" in the first line "water works and" and by inserting after "of" in the second line "water work and".

s. 69 (1), re-enacted

29. Subsection 1 of section 69 of the said Act, as amended by the Statutes of Ontario, 1972, chapter 1, section 70, is repealed and the following substituted therefor:

Sewage disposal

(1) If an industrial or commercial enterprise makes arrangements for the collection, transmission, treatment or disposal of sewage that are considered unsatisfactory by a Director, the Director may require such industrial or commercial enterprise,

SECTION 27. Complementary to sections 25 and 26 of the Bill.

SECTION 28.—Subsection 1. The amendment provides that the Minister will determine the changes that may be necessary in standards of the Canadian Standards Association with respect to plumbing when they are adopted in regulations.

Subsection 2. The amendment provides for the classifying and licensing of water work operators.

SECTION 29. Section 69 (1) of the Act is re-enacted as two subsections. The re-enactment is complementary to the enactment of new section 8 of the Act.

SECTION 30. The section protects members of the Environmental Appeal Board and of the Environmental Hearing Board, and employees of the Ministry and Crown employees who act under the direction of any of them from personal liability but does not prevent actions against the Crown.

(*a*) to make investigations and submit reports to the Director in respect of the collection, transmission, treatment or disposal of sewage;

(*b*) to install, construct or arrange such facilities for the collection, transmission, treatment or disposal of sewage; and

(*c*) to maintain, keep in repair and operate such facilities,

as may be directed from time to time by the Director.

(1*a*) If an industrial or commercial enterprise makes no arrangements for the collection, transmission, treatment or disposal of sewage, a Director may require such industrial or commercial enterprise, Idem

(*a*) to make investigations and submit reports to the Director in respect of the collection, transmission, treatment or disposal of sewage;

(*b*) to install, construct or arrange such facilities for the collection, transmission, treatment or disposal of sewage; and

(*c*) to maintain, keep in repair and operate such facilities,

as may be directed from time to time by the Director.

30. The said Act is further amended by adding thereto the following section: s. 71, enacted

71.—(1) Except in the case of an application for judicial review or an action or proceeding that is specifically provided for with respect to a person referred to in this subsection in any Act or in a regulation under this or any other Act, no action or other proceeding for damages or otherwise shall be instituted against any member of the Environmental Appeal Board or the Hearing Board or against any employee of the Ministry or any Crown employee within the meaning of *The Public Service Act* acting under the direction of such member or employee of the Ministry for any act done in good faith in the execution or intended execution of any duty or authority under this Act or for any alleged neglect or default in the execution in good faith of any such duty or authority. Protection from personal liability R.S.O. 1970, c. 386

(2) Subsection 1 does not, by reason of subsections 2 and 4 of section 5 of *The Proceedings Against the Crown Act*, Crown not relieved of liability R.S.O. 1970, c. 365

relieve the Crown of liability in respect of a tort committed by an agent or servant of the Crown to which it would otherwise be subject and the Crown is liable under that Act for any such tort in a like manner as if subsection 1 had not been enacted.

s. 75, re-enacted

31. Section 75 of the said Act, as amended by the Statutes of Ontario, 1972, chapter 1, section 70, is repealed and the following substituted therefor:

Fees for approval

75. Upon the issuance or alteration of a permit or the giving of approval under this Act, there shall be paid to the Treasurer such fees as the Minister may determine, in each case having regard amongst other things to the time occupied by the Ministry in respect of such issuance, alteration or approval, and the terms and conditions in respect thereof.

s. 76, re-enacted

32. Section 76 of the said Act, as amended by the Statutes of Ontario, 1972, chapter 1, section 70, is repealed and the following substituted therefor:

Fees for copies, information or advice

76. The Minister may charge and collect for payment to the Treasurer such fees as the Minister considers proper,

(*a*) for copies of documents, maps, plans or drawings; or

(*b*) for information or advice in respect of the collection, production, transmission, treatment, storage, supply or distribution of water or sewage,

supplied by the Ministry.

s. 77, amended

33. Section 77 of the said Act, as amended by the Statutes of Ontario, 1972, chapter 1, section 70, is further amended by inserting after "who" in the first line "knowingly" and by inserting after "Minister" in the amendment of 1972 "or an employee of the Ministry".

s. 78, re-enacted

34. Section 78 of the said Act, as amended by the Statutes of Ontario, 1972, chapter 1, section 70, is repealed and the following substituted therefor:

Recovery of moneys owing to Treasurer

78. Any amount due and payable by a municipality or a person to the Treasurer in respect of any matter under this Act, together with such interest and expenses of debt service as may be determined by the Treasurer with respect to such amount, may be recovered by the Minister with costs in a court of competent jurisdiction as a debt due to the Crown by the municipality or person.

SECTION 31. The purpose of the amendment is to provide that the fees provided for in the section shall be paid to the Treasurer of Ontario.

SECTION 32. The amendment incorporates the provisions of section 17 (1) (*f*) into section 76 of the Act and provides that the fees referred to are to be paid to the Treasurer of Ontario.

SECTION 33. The amendment is complementary to the enactment of new section 8 of the Act and is also for the purpose of clarification.

SECTION 34. The amendment is complementary to the amendments in other sections of this Bill that provide for the payment of amounts to the Treasurer of Ontario.

SECTION 35. The amendments are complementary to new section 8 of the Act.

SECTION 36. Self-explanatory.

35.—(1) Subsection 2 of section 79 of the said Act, as enacted by the Statutes of Ontario, 1972, chapter 1, section 70, is repealed and the following substituted therefor: s. 79 (2), re-enacted

(2) When a Director, When approval, etc., refused

(*a*) refuses to issue or renew, or cancels or suspends a licence or permit or refuses to grant an approval;

(*b*) imposes terms and conditions in issuing a licence or permit or in granting an approval;

(*c*) alters the terms and conditions of a permit after it is issued; or

(*d*) gives or makes any notice, direction, report or order, except an order under section 61,

he shall serve written notice of the refusal, cancellation or suspension referred to in clause *a*, the terms and conditions imposed or altered as referred to in clause *b* or *c*, or a written copy of the notice, direction, report or order referred to in clause *d*, together with written reasons therefor, in each case upon the applicant or the person or municipality to whom the licence, permit, approval, direction, order, report or notice is issued, as the case may be, and the applicant, person or municipality may, by written notice served upon the Director and the Environmental Appeal Board within fifteen days after the service of the notice, terms and conditions or written copy together with written reasons therefor in each case require a hearing by the Environmental Appeal Board.

(2) Subsection 4 of the said section 79 is repealed and the following substituted therefor: s. 79 (4), re-enacted

(4) The applicant, person or municipality requiring the hearing, the Director referred to in subsection 2 and any other persons specified by the Environmental Appeal Board are parties to the hearing. Parties to hearing

36. The exercise on or after the 1st day of April, 1974, and before this Act receives Royal Assent of any power, duty or authority under *The Ontario Water Resources Act*, as amended by this Act, by the Treasurer of Ontario, the Minister of the Environment or a Director appointed under section 8 of *The Ontario Water Resources Act*, as amended by this Act, that by this Act is vested in any of them shall be deemed to have been exercised under *The Ontario Water Resources Act*, as amended by this Act. Interim provision

Commencement

37. This Act shall be deemed to have come into force on the 1st day of April, 1974.

Short title

38. This Act may be cited as *The Ontario Water Resources Amendment Act, 1974*.

An Act to amend
The Ontario Water Resources Act

1st Reading

April 23rd, 1974

2nd Reading

3rd Reading

THE HON. W. NEWMAN
Minister of the Environment

(*Government Bill*)

1974

BILL 35

4TH SESSION, 29TH LEGISLATURE, ONTARIO
23 ELIZABETH II, 1974

An Act to amend The Ontario Water Resources Act

THE HON. W. NEWMAN
Minister of the Environment

TORONTO
PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO

BILL 35 **1974**

An Act to amend The Ontario Water Resources Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) Clause *g* of section 1 of *The Ontario Water Resources Act*, being chapter 332 of the Revised Statutes of Ontario, 1970, as amended by the Statutes of Ontario, 1972, chapter 1, section 70, is repealed and the following substituted therefor: s. 1 (*g*), re-enacted

(*g*) "cost" means,

(i) in relation to a project under an agreement entered into before the 1st day of April, 1974, the cost thereof as determined by the Minister and includes interest during construction and such engineering fees and other charges and expenses in connection with construction as the Minister may determine, and such proportion of discounts, commissions and other charges and expenses in respect of the issue of debentures by the Crown as the Minister in his discretion may allocate to the project, or

(ii) in relation to a project under an agreement entered into on or after the 1st day of April, 1974, the cost thereof as determined by the Minister and includes such engineering fees and other charges and expenses in connection with construction as the Minister may determine and such financing costs applicable to the project as the Treasurer may determine and the Minister in his discretion may allocate to the project.

s. 1 (*ia*), re-enacted; s. 1 (*oa*), repealed

(2) Clauses *ia* and *oa* of the said section 1, as enacted by the Statutes of Ontario, 1972, chapter 1, section 70, are repealed and the following substituted therefor:

(*ia*) "Director" means a Director appointed under section 8.

s. 1, amended

(3) The said section 1, as amended by the Statutes of Ontario, 1972, chapter 1, section 70 and 1973, chapter 90, section 1, is further amended by adding thereto the following clause:

(*qa*) "Treasurer" means the Treasurer of Ontario and Minister of Economics and Intergovernmental Affairs.

R.S.O. 1970, c. 332, amended

2. The said Act, as amended by the Statutes of Ontario, 1972, chapter 1, section 70 and 1973, chapter 90, is further amended by,

(*a*) striking out "the Executive Director, Water Supply and Pollution Control, of the Ministry,

(i) where it occurs in the first instance in each section set out in Column 2 of the following Table and inserting in lieu thereof in each such instance "a Director", and

(ii) where it occurs in the second and subsequent instances in each section set out in Column 3 of the following Table and inserting in lieu thereof in each such instance "the Director".

Table 1

Column 1 Item	Column 2 Section	Column 3 Section
1	17 (1*b*)	
2	33 (1)	33 (1)
3	34 (1)	34 (1)
4	34 (2)	
5	41 (1)	41 (1)
6	41 (4)	41 (4)
7	41 (5) (*a*)	
8	41 (5) (*b*)	
9	41 (6)	41 (6)

Table 1—*Continued*

Column 1 Item	Column 2 Section	Column 3 Section
10	41 (7)	
11	41 (8)	
12	42 (1)	42 (1)
13	42 (4)	42 (4)
14	42 (5) (*a*)	
15	42 (5) (*b*)	
16	43 (1)	43 (1)
17	43 (3)	
18	43 (4)	43 (4)
19	43 (5)	
20	43 (11)	
21	43 (12)	
22	44 (1)	44 (1)
23	44 (3)	44 (3)
24	44 (4)	
25	44 (5)	
26	45	
27	49	49
28	50 (1)	
29	50 (2)	
30	51 (1)	51 (1)
31	62 (1) (*n*)	
32	69 (2)	
33	70 (1)	70 (1);

(*b*) striking out "the Executive Director, Water Resources, of the Ministry",

(i) where it occurs in the first instance in each section set out in Column 2 of the following Table and inserting in lieu thereof in each such instance "a Director", and

(ii) where it occurs in the second and subsequent instances in each section set out in Column 3 of the following Table and inserting in lieu thereof in each such instance "the Director".

Table 2

Column 1 Item	Column 2 Section	Column 3 Section
1	37 (3)	
2	37 (4)	37 (4)
3	37 (6)	
4	37 (7)	37 (7)
5	37 (8)	
6	39 (1)	
7	39 (2)	
8	39 (3)	
9	40 (1)	
10	40 (2)	
11	40 (4)	
12	40 (5)	
13	62 (1) (*q*);	

(*c*) striking out "the Assistant Deputy Minister, Water Management, of the Ministry",

(i) where it occurs in the first instance in each section set out in Column 2 of the following Table and inserting in lieu thereof in each such instance "a Director", and

(ii) where it occurs in the second and subsequent instances in each section set out in Column 3 of the following Table and inserting in lieu thereof in each such instance "the Director".

Table 3

Column 1 Item	Column 2 Section	Column 3 Section
1	3 (8)	
2	61 (2)	61 (2)
3	61 (3)	
4	61 (4)	61 (4)
5	61 (5)	61 (5)
6	61 (7)	61 (7)
7	61 (8)	
8	61 (10)	
9	61 (14);	

(*d*) striking out "the Assistant Deputy Minister, Water Management, the Executive Director, Water Sup-

ply and Pollution Control, or the Executive Director, Water Resources, of the Ministry" where they occur in the sections set out in the following Table and inserting in lieu thereof in each instance "a Director".

Table 4

Item	Section
1	9*a* (10)
2	9*a* (14)
3	74
4	79 (1);

(*e*) striking out "Minister" where it occurs in each of the sections set out in the following Table and inserting in lieu thereof in each instance "Treasurer".

Table 5

Item	Section
1	53 (4)
2	56 (4)
3	61 (11)
4	61 (12)
5	61 (14).

3.—(1) Subsection 4 of section 3 of the said Act, as re-enacted by the Statutes of Ontario, 1972, chapter 1, section 70, is amended by inserting after "reference" in the first line "to the Commission" and by striking out "the Assistant Deputy Minister, Water Management, Executive Director, Water Supply and Pollution Control or the Executive Director, Water Resources, of the Ministry" in the fourth, fifth, sixth, seventh and eighth lines and inserting in lieu thereof "a Director". s. 3 (4) amended

(2) Subsection 5 of the said section 3 is repealed and the following substituted therefor: s. 3 (5), re-enacted

(5) A reference to the Commission in Regulation 644 of Revised Regulations of Ontario, 1970, shall be deemed to be a reference to a Director. Reference in regulation

(5*a*) A reference to the Commission in Regulation 647 of Revised Regulations of Ontario, 1970, shall be deemed to be a reference to the Minister. Idem

s. 3 (9), amended

(3) Subsection 9 of the said section 3 is amended by striking out "Executive Director, Water Supply and Pollution Control or the Executive Director, Water Resources or the Assistant Deputy Minister, Water Management, of the Ministry" in the sixth, seventh, eighth and ninth lines and inserting in lieu thereof "Director".

s. 5, repealed

4. Section 5 of the said Act, as amended by the Statutes of Ontario, 1972, chapter 1, section 70, is repealed.

s. 8, enacted

5. The said Act is further amended by adding thereto the following section:

Appointment of Directors by Minister

8.—(1) The Minister shall appoint in writing such employees of the Ministry as he considers necessary as Directors in respect of such sections of this Act and in respect of such of the regulations or sections thereof as are set out in the appointments.

Limitations

(2) The Minister, in an appointment pursuant to subsection 1, may limit the authority of a Director in such manner as the Minister considers necessary or advisable.

s. 9*a* (11), re-enacted

6. Subsection 11 of section 9*a* of the said Act, as enacted by the Statutes of Ontario, 1972, chapter 1, section 70, is repealed and the following substituted therefor:

When Hearing Board to hold public hearing

(11) Upon receipt of notice from a Director referred to in subsection 10, the Hearing Board shall hold a public hearing with respect to the subject-matter of the notice and shall report thereon to the Director.

ss. 12, 13, repealed

7. Sections 12 and 13 of the said Act, as re-enacted by the Statutes of Ontario, 1972, chapter 1, section 70, are repealed.

s. 17 (1) (*f*), amended

8. Clause *f* of subsection 1 of section 17 of the said Act is amended by striking out "and to charge fees in respect thereof" in the third and fourth lines.

s. 20 (1), amended

9. Subsection 1 of section 20 of the said Act, as amended by the Statutes of Ontario, 1972, chapter 1, section 70, is further amended by striking out "and, except as provided in subsection 3, the Crown is liable for any damage occasioned thereby" in the ninth, tenth and eleventh lines and in the amendment of 1972.

ss. 24, 25, repealed

10. Sections 24 and 25 of the said Act, as amended by the Statutes of Ontario, 1972, chapter 1, section 70, are repealed.

11. Section 26 of the said Act, as re-enacted by the Statutes of Ontario, 1972, chapter 1, section 70, is repealed. s. 26, repealed

12. Section 27 of the said Act is repealed. s. 27, repealed

13. Subsection 5 of section 32 of the said Act, as amended by the Statutes of Ontario, 1972, chapter 1, section 70, is further amended by adding after "Ministry" in the amendment of 1972 "or a Director". s. 32 (5), amended

14. Subsection 1 of section 36 of the said Act, as re-enacted by the Statutes of Ontario, 1972, chapter 1, section 70, is repealed and the following substituted therefor: s. 36 (1), re-enacted

(1) An area may be defined by a Director that includes a source of public water supply, Area defined for protection of public water supply

(*a*) wherein no person shall swim or bathe; or

(*b*) wherein no material of any kind that may impair the quality of water therein shall be placed, deposited, discharged or allowed to remain; or

(*c*) wherein no act shall be done and no water shall be taken that may unduly diminish the amount of water available in such area as a public water supply,

and thereupon the municipality or person who has a right to use the water from such source for the purpose of a public water supply shall give notice of the area so defined by publication, posting or otherwise as the Director considers necessary for the protection of the source of public water supply.

15. Clause *a* of subsection 8 of section 37 of the said Act is amended by striking out "2" and inserting in lieu thereof "3". s. 37 (8) (*a*), amended

16. Subsection 3 of section 41 of the said Act, as amended by the Statutes of Ontario, 1972, chapter 1, section 70, is repealed and the following substituted therefor: s. 41 (3), re-enacted

(3) Where any person undertakes or proceeds with the establishment of any water works, or the extension of or change in any existing water works, without having first obtained the approval of a Director, a Director may order the person or his successor or assignee to afford at his own expense such facilities as the Director considers necessary for the investigation of the works and the Powers of Director, where water works undertaken without approval

source of water supply and may direct such changes to be made in the source of water supply and in the works as the Director considers necessary, and any changes directed by the Director to be made in the works shall be carried out by the person or his successor or assignee at his own expense.

s. 42 (3), re-enacted

17. Subsection 3 of section 42 of the said Act, as amended by the Statutes of Ontario, 1972, chapter 1, section 70, is repealed and the following substituted therefor:

Powers of Director, where sewage works under taken without approval

(3) Where any person undertakes or proceeds with the establishment of any sewage works, or the extension of or any change in any existing sewage works, without having first obtained the approval of a Director, a Director may order the person or his successor or assignee to afford at his own expense such facilities as the Director considers necessary for the investigation of the works and the location of the discharge of effluent and may direct such changes to be made in the location of the discharge of effluent and in the works as the Director considers necessary, and any changes directed by the Director to be made in the works shall be carried out by the person or his successor or assignee at his own expense.

s. 48, re-enacted

18. Section 48 of the said Act, as amended by the Statutes of Ontario, 1972, chapter 1, section 70, is repealed and the following substituted therefor:

Construction or operation of approved sewage works by statutory authority

48. Sewage works that are being or have been constructed, maintained or operated with the approval of the former Department of Health, the Commission, the Executive Director, Water Supply and Pollution Control of the Ministry or of a Director and in accordance with the terms and conditions imposed in any order, direction, report or regulation of the former Department of Health, the Commission, the Minister of Health, the Executive Director, Water Supply and Pollution Control of the Ministry, a Director or the Board under the authority of this Act or any predecessor of any provision of this Act, so long as the sewage works are being so constructed or are so constructed, maintained or operated, shall be deemed to be under construction, constructed, maintained or operated by statutory authority.

s. 51 (3), re-enacted

19. Subsection 3 of section 51 of the said Act, as amended by the Statutes of Ontario, 1972, chapter 1, section 70, is repealed and the following substituted therefor:

Power of Director to implement report

(3) Where the municipality fails to do every act and thing in its power to implement a report made to it

under subsection 1 forthwith after receipt of the report, and the time for taking an appeal has passed or there has been final disposition of an appeal by which the report is confirmed or altered, the Director, with the approval of the Board, may direct that whatever is necessary to implement the report or the report as confirmed or altered be done at the expense of the municipality, and the Minister may recover the expense incurred in doing it, with costs, by action in a court of competent jurisdiction, as a debt due to the Crown by such municipality.

20. Clause *b* of subsection 2 of section 52 of the said Act, as amended by the Statutes of Ontario, 1972, chapter 1, section 70, is repealed and the following substituted therefor: s. 52 (2) (b), re-enacted

(*b*) a statement of the terms and conditions including the method of financing as determined by the Minister upon which the Minister will complete and operate the project; and

. . . . . .

21.—(1) Subsection 1 of section 53 of the said Act, as re-enacted by the Statutes of Ontario, 1972, chapter 1, section 70, is amended by, s. 53 (1), amended

(*a*) inserting after "52" in the second line "before the 1st day of April, 1974";

(*b*) striking out "Minister" in the third line and inserting in lieu thereof "Treasurer"; and

(*c*) striking out "Assistant Deputy Minister, Water Management, of the Ministry" in the seventh and eighth lines and by striking out "Assistant Deputy Minister, Water Management" in the sixteenth and seventeenth lines and inserting in lieu thereof in each instance "Minister".

(2) Subsections 2 and 3 of the said section 53, as amended by the Statutes of Ontario, 1972, chapter 1, section 70, are repealed and the following substituted therefor: s. 53 (2, 3), re-enacted

(2) In respect of agreements under section 52 entered into after the 31st day of December, 1965 and before the 1st day of April, 1974, the interest and expenses of debt service that would be payable by the Commission referred to in clause *a* of paragraph 1 of subsection 1 shall, in each year during the currency of the agreement, be the Interest and expenses of debt service

amount calculated by applying the average rate of such interest and expenses as would have been payable to the Treasurer in respect of the project.

Annual adjustment of payments

(3) The Minister shall annually adjust and apportion among the respective municipalities the sums payable to the Treasurer by such municipalities under subsection 1.

s. 54 (1, 3), re-enacted

22. Subsections 1 and 3 of section 54 of the said Act, as amended by the Statutes of Ontario, 1972, chapter 1, section 70, are repealed and the following substituted therefor:

Sewer rates and water works rates

(1) The council of a municipality that has entered into or proposes to enter into an agreement with the Crown under section 52 may by by-law, subject to the approval of the Board, provide for imposing upon owners or occupants of land who derive or will or may derive a benefit from the project a sewer rate or water works rate, as the case may be, sufficient to pay the whole or such portion as the by-law may specify of the annual payments to the Treasurer required to be made,

(*a*) where the agreement is or has been entered into before the 1st day of April, 1974, under clause *a* of paragraph 1 and paragraph 2 of subsection 1 of section 53; or

(*b*) where the agreement is entered into on or after the 1st day of April, 1974, under the agreement for the cost of the project,

and, with the like approval, such by-law may from time to time be amended or repealed.

. . . . .

Sewage service rate and water service rate

(3) The council of a municipality that has entered into or proposes to enter into an agreement with the Crown under section 52 may by by-law provide for imposing upon owners or occupants of land from which sewage is received, treated or disposed of or to which water is supplied through or by the project a sewage service rate or water service rate, as the case may be, sufficient to pay the whole or such portion as the by-law may specify of the annual payments to the Treasurer required to be made,

(*a*) where the agreement is or has been entered into before the 1st day of April, 1974, under clauses *b* and *c* of paragraph 1 of subsection 1 of section 53; or

(*b*) where the agreement is entered into on or after the 1st day of April, 1974, under the agreement for,

(i) the total cost to the Crown in each year of the operation, supervision, maintenance, repair, administration and insurance of the project, and

(ii) the total amount in each year placed by the Minister to the credit of any reserve account established under the agreement for the project.

23.—(1) Subsections 1 and 2 of section 56 of the said Act, as amended by the Statutes of Ontario, 1972, chapter 1, section 70, are repealed and the following substituted therefor: s. 56 (1, 2), re-enacted

(1) As soon as practicable in each calender year, and in any event not later than the 15th day of February, the Minister shall estimate the respective amounts payable to the Treasurer in such calendar year by each of the municipalities having agreements with the Crown under section 52 entered into before the 1st day of April, 1974 and shall by his precept directed to each municipality require such municipality to pay to the Treasurer on the dates specified in the agreement the sums so payable by each municipality and the municipality shall make payment to the Treasurer accordingly, but in the calendar year in which occurs the date of completion of the project the estimate by the Minister may be made and the precept of the Minister may be delivered at any time in such year as the Minister may determine and the payment or payments by the municipality shall be made at such time or times as the Minister may require. When payments to be made

(2) At the end of each calendar year, the actual sums payable by each municipality to the Treasurer for such year for the purposes aforesaid shall be ascertained by the Minister and the Minister shall inform the municipality of the amount owing to or by it and such amount shall be deducted from or added to the first payment to be made by the municipality in the next calendar year. Adjustment

(2) Subsection 5 of the said section 56, as amended by the Statutes of Ontario, 1972, chapter 1, section 70, is further amended by striking out "Minister" in the amendment of 1972 and inserting in lieu thereof "Treasurer" and by inserting after "agreement" in the second line "entered into under section 52". s. 56 (5), amended

s. 57 (1, 2), re-enacted

24.—(1) Subsections 1 and 2 of section 57 of the said Act, as amended by the Statutes of Ontario, 1972, chapter 1, section 70, are repealed and the following substituted therefor:

Reserve accounts

(1) The Minister may establish and maintain a reserve account in respect of each project under section 52,

(*a*) to provide for renewals and replacements in respect of the project;

(*b*) to provide for contingencies in respect of such project; and

(*c*) to provide for capital expenditures for the improvement of the project in relation to its operation and appearance,

and for such purposes may place to the credit of or charge to such reserve accounts such amounts as may in the opinion of the Minister be sufficient therefor.

When moneys may be expended in respect of another project

(2) Notwithstanding subsection 1, where a reserve account has been established in respect of a project, the Minister may, in respect of any other project for the same municipality, charge to such reserve account such amounts as in the opinion of the Minister may be sufficient therefor for any of the purposes mentioned in clauses *a*, *b* and *c* of subsection 1.

s. 57 (3, 4), repealed

(2) Subsections 3 and 4 of the said section 57, as amended by the Statutes of Ontario, 1972, chapter 1, section 70, are repealed.

s. 57*a*, enacted

25. The said Act is further amended by adding thereto the following section:

Ministry of the Environment Reserve Fund

57*a*.—(1) All amounts heretofore placed and remaining or hereafter placed to the credit of all reserve accounts under any agreements under this Act shall be deposited with the Treasurer to the credit of a special consolidated account in the Consolidated Revenue Fund to be called "Ministry of the Environment Reserve Account" and the interest applicable in each year to the consolidated account as determined by the Treasurer shall be allocated and credited by the Minister at the end of each year to each reserve account proportionately having regard to the respective balances from time to time remaining to the credit of the respective reserve accounts.

(2) The accounts of the Minister with respect to the reserve accounts referred to in subsection 1 shall be kept so as to exhibit at all times the amounts placed to the credit of each reserve account, the interest credited thereon and the payments made in respect thereof. Idem

26. Section 58 of the said Act, as amended by the Statutes of Ontario, 1972, chapter 1, section 70, is repealed and the following substituted therefor: s. 58, re-enacted

58.—(1) All amounts heretofore placed and remaining or hereafter placed to the credit of all municipalities with respect to all moneys received from the municipalities under paragraph 2 of subsection 1 of section 53 shall be deposited with the Treasurer to the credit of a special consolidated account in the Consolidated Revenue Fund to be called "Ministry of the Environment Debt Retirement Account" and that part of the amounts so credited as is attributable to each project shall remain as a credit in the Ministry of the Environment Debt Retirement Account until the expiration of the period of years during which payments are required to be made in respect of such project under paragraph 2 of subsection 1 of section 53. Ministry of the Environment Sinking Fund

(2) The interest applicable in each year to the consolidated account as determined by the Treasurer shall be allocated and credited by the Minister at the end of each year to the respective projects proportionately having regard to the respective balances in the consolidated account from time to time attributable to such projects and the accounts of the Minister with respect to such projects shall be kept so as to exhibit at all times the amounts placed to the credit of each project, the interest credited thereon and the payments made in respect thereof. Idem

(3) If at any time the amount in the consolidated account attributable to any project is, in the opinion of the Minister, sufficient with the further estimated interest thereon to form at the expiration of the period of years referred to in paragraph 2 of subsection 1 of section 53 an amount equal to the cost of the project, the Minister, subject to subsection 4 of this section and with the consent of the Treasurer, may authorize the municipality or municipalities with whom the Crown has an agreement in respect of such project to discontinue any further payments under paragraph 2 of subsection 1 of section 53. Discontinuance of further payments

(4) If at the expiration of such period of years the amount in the consolidated account attributable to any project, Excess or deficiency

(*a*) is in excess of the cost of the project, the Treasurer shall within one year thereafter repay to such municipality or municipalities the amount of such excess; or

(*b*) is less than the cost of the project, the municipality or municipalities shall, within one year thereafter, pay to the Treasurer the amount of such deficiency.

Discharge of indebtedness to Province

(5) Notwithstanding any other provision of this Act, the Treasurer may at any time, upon the request of the Minister, pay to the Province out of the Ministry of the Environment Debt Retirement Account any sum attributable to any project in payment or part payment of the amount owing to the Crown for the cost of the project.

s. 59, re-enacted

27. Section 59 of the said Act, as amended by the Statutes of Ontario, 1972, chapter 1, section 70, is repealed and the following substituted therefor:

Ontario Water Resources Reserve and Debt Retirement Accounts

59. All moneys in the Ontario Water Resources Reserve Account and the Ontario Water Resources Debt Retirement Account immediately before this section comes into force and all investments derived from moneys at any time in those accounts vest in the Crown and the Crown is bound by the liabilities in respect of such moneys and investments.

s. 62 (1) (*g*), amended

28.—(1) Clause *g* of subsection 1 of section 62 of the said Act, as amended by the Statutes of Ontario, 1972, chapter 1, section 70, is further amended by striking out "Executive Director, Water Supply and Pollution Control, of the Ministry" in the amendment of 1972, and inserting in lieu thereof "Minister".

s. 62 (1) (*j*), amended

(2) Clause *j* of subsection 1 of the said section 62 is amended by inserting after "operate" in the first line "water works and" and by inserting after "of" in the second line "water work and".

s. 69 (1), re-enacted

29. Subsection 1 of section 69 of the said Act, as amended by the Statutes of Ontario, 1972, chapter 1, section 70, is repealed and the following substituted therefor:

Sewage disposal

(1) If an industrial or commercial enterprise makes arrangements for the collection, transmission, treatment or disposal of sewage that are considered unsatisfactory by a Director, the Director may require such industrial or commercial enterprise,

(*a*) to make investigations and submit reports to the Director in respect of the collection, transmission, treatment or disposal of sewage;

(*b*) to install, construct or arrange such facilities for the collection, transmission, treatment or disposal of sewage; and

(*c*) to maintain, keep in repair and operate such facilities,

as may be directed from time to time by the Director.

(1*a*) If an industrial or commercial enterprise makes no arrangements for the collection, transmission, treatment or disposal of sewage, a Director may require such industrial or commercial enterprise, Idem

(*a*) to make investigations and submit reports to the Director in respect of the collection, transmission, treatment or disposal of sewage;

(*b*) to install, construct or arrange such facilities for the collection, transmission, treatment or disposal of sewage; and

(*c*) to maintain, keep in repair and operate such facilities,

as may be directed from time to time by the Director.

30. The said Act is further amended by adding thereto the following section: s. 71, enacted

71.—(1) Except in the case of an application for judicial review or an action or proceeding that is specifically provided for with respect to a person referred to in this subsection in any Act or in a regulation under this or any other Act, no action or other proceeding for damages or otherwise shall be instituted against any member of the Environmental Appeal Board or the Hearing Board or against any employee of the Ministry or any Crown employee within the meaning of *The Public Service Act* acting under the direction of such member or employee of the Ministry for any act done in good faith in the execution or intended execution of any duty or authority under this Act or for any alleged neglect or default in the execution in good faith of any such duty or authority. Protection from personal liability R.S.O. 1970, c. 386

(2) Subsection 1 does not, by reason of subsections 2 and 4 of section 5 of *The Proceedings Against the Crown Act*, Crown not relieved of liability R.S.O. 1970, c. 365

relieve the Crown of liability in respect of a tort committed by an agent or servant of the Crown to which it would otherwise be subject and the Crown is liable under that Act for any such tort in a like manner as if subsection 1 had not been enacted.

s. 75, re-enacted

31. Section 75 of the said Act, as amended by the Statutes of Ontario, 1972, chapter 1, section 70, is repealed and the following substituted therefor:

Fees for approval

75. Upon the issuance or alteration of a permit or the giving of approval under this Act, there shall be paid to the Treasurer such fees as the Minister may determine, in each case having regard amongst other things to the time occupied by the Ministry in respect of such issuance, alteration or approval, and the terms and conditions in respect thereof.

s. 76, re-enacted

32. Section 76 of the said Act, as amended by the Statutes of Ontario, 1972, chapter 1, section 70, is repealed and the following substituted therefor:

Fees for copies, information or advice

76. The Minister may charge and collect for payment to the Treasurer such fees as the Minister considers proper,

(*a*) for copies of documents, maps, plans or drawings; or

(*b*) for information or advice in respect of the collection, production, transmission, treatment, storage, supply or distribution of water or sewage,

supplied by the Ministry.

s. 77, amended

33. Section 77 of the said Act, as amended by the Statutes of Ontario, 1972, chapter 1, section 70, is further amended by inserting after "who" in the first line "knowingly" and by inserting after "Minister" in the amendment of 1972 "or an employee of the Ministry".

s. 78, re-enacted

34. Section 78 of the said Act, as amended by the Statutes of Ontario, 1972, chapter 1, section 70, is repealed and the following substituted therefor:

Recovery of moneys owing to Treasurer

78. Any amount due and payable by a municipality or a person to the Treasurer in respect of any matter under this Act, together with such interest and expenses of debt service as may be determined by the Treasurer with respect to such amount, may be recovered by the Minister with costs in a court of competent jurisdiction as a debt due to the Crown by the municipality or person.

35.—(1) Subsection 2 of section 79 of the said Act, as enacted by the Statutes of Ontario, 1972, chapter 1, section 70, is repealed and the following substituted therefor: s. 79 (2), re-enacted

(2) When a Director, When approval, etc., refused

(*a*) refuses to issue or renew, or cancels or suspends a licence or permit or refuses to grant an approval;

(*b*) imposes terms and conditions in issuing a licence or permit or in granting an approval;

(*c*) alters the terms and conditions of a permit after it is issued; or

(*d*) gives or makes any notice, direction, report or order, except an order under section 61,

he shall serve written notice of the refusal, cancellation or suspension referred to in clause *a*, the terms and conditions imposed or altered as referred to in clause *b* or *c*, or a written copy of the notice, direction, report or order referred to in clause *d*, together with written reasons therefor, in each case upon the applicant or the person or municipality to whom the licence, permit, approval, direction, order, report or notice is issued, as the case may be, and the applicant, person or municipality may, by written notice served upon the Director and the Environmental Appeal Board within fifteen days after the service of the notice, terms and conditions or written copy together with written reasons therefor in each case require a hearing by the Environmental Appeal Board.

(2) Subsection 4 of the said section 79 is repealed and the following substituted therefor: s. 79 (4), re-enacted

(4) The applicant, person or municipality requiring the hearing, the Director referred to in subsection 2 and any other persons specified by the Environmental Appeal Board are parties to the hearing. Parties to hearing

36. The exercise on or after the 1st day of April, 1974, and before this Act receives Royal Assent of any power, duty or authority under *The Ontario Water Resources Act*, as amended by this Act, by the Treasurer of Ontario, the Minister of the Environment or a Director appointed under section 8 of *The Ontario Water Resources Act*, as amended by this Act, that by this Act is vested in any of them shall be deemed to have been exercised under *The Ontario Water Resources Act*, as amended by this Act. Interim provision

Commencement

37. This Act shall be deemed to have come into force on the 1st day of April, 1974.

Short title

38. This Act may be cited as *The Ontario Water Resources Amendment Act, 1974*.

An Act to amend
The Ontario Water Resources Act

1st Reading

April 23rd, 1974

2nd Reading

June 11th, 1974

3rd Reading

June 11th, 1974

THE HON. W. NEWMAN
Minister of the Environment

1974

BILL 36 **Government Bill**

4TH SESSION, 29TH LEGISLATURE, ONTARIO
23 ELIZABETH II, 1974

An Act to amend The Ministry of Housing Act, 1973

THE HON. S. B. HANDLEMAN
Minister of Housing

TORONTO
PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO

Explanatory Note

The added section authorizes the Minister to implement recommendations made to the Government on housing and related matters.

BILL 36 1974

An Act to amend The Ministry of Housing Act, 1973

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. *The Ministry of Housing Act, 1973*, being chapter 100, is amended by adding thereto the following section: s. 7a, enacted

7a. The Minister, with the approval of the Lieutenant Governor in Council, may take such measures as he considers appropriate to implement any recommendation made under section 7, including entering into agreement for such purpose with any municipality, including a metropolitan, regional or district municipality, or with any other person. Powers of Minister to implement recommendations

2. This Act comes into force on the day it receives Royal Assent. Commencement

3. This Act may be cited as *The Ministry of Housing Amendment Act, 1974*. Short title

An Act to amend
The Ministry of Housing Act, 1973

1st Reading

April 23rd, 1974

2nd Reading

3rd Reading

THE HON. S. B. HANDLEMAN
Minister of Housing

(*Government Bill*)

1974

BILL 36

4TH SESSION, 29TH LEGISLATURE, ONTARIO
23 ELIZABETH II, 1974

An Act to amend The Ministry of Housing Act, 1973

THE HON. S. B. HANDLEMAN
Minister of Housing

TORONTO
PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO

BILL 36 **1974**

An Act to amend The Ministry of Housing Act, 1973

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. *The Ministry of Housing Act, 1973*, being chapter 100, is amended by adding thereto the following section: s. 7a, enacted

7a. The Minister, with the approval of the Lieutenant Governor in Council, may take such measures as he considers appropriate to implement any recommendation made under section 7, including entering into agreement for such purpose with any municipality, including a metropolitan, regional or district municipality, or with any other person. Powers of Minister to implement recommendations

2. This Act comes into force on the day it receives Royal Assent. Commencement

3. This Act may be cited as *The Ministry of Housing Amendment Act, 1974*. Short title

An Act to amend
The Ministry of Housing Act, 1973

1st Reading

April 23rd, 1974

2nd Reading

May 7th, 1974

3rd Reading

May 7th, 1974

THE HON. S. B. HANDLEMAN
Minister of Housing

1974

BILL 37 **Government Bill**

4TH SESSION, 29TH LEGISLATURE, ONTARIO
23 ELIZABETH II, 1974

An Act to amend The Environmental Protection Act, 1971

THE HON. W. NEWMAN
Minister of the Environment

TORONTO
PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO

Explanatory Notes

Section 1. This definition replaces the definitions of the terms "Director" and "Executive Director" in the Parts of the Act.

Section 2. Self-explanatory.

Section 3. Section 4 of the Act defines the term "Director" for the purposes of Part II of the Act. The repeal is complementary to the enactment of the new sections 1 (2) and 3*a* of the Act.

Section 4. Complementary to new sections 1 (2) and 3*a* of the Act.

Section 5. Section 22 (*a*) of the Act defines the term "Director" for the purposes of Part III of the Act. The repeal is complementary to the enactment of new sections 1 (2) and 3*a* of the Act.

Section 6. Section 25 of the Act defines the term "Director" for the purposes of Part IV of the Act. The repeal is complementary to the enactment of new sections 1 (2) and 3*a* of the Act.

Section 7. Part VI, referred to in section 26 of the Act, formerly related to pesticides which are dealt with under *The Pesticides Act, 1973*.

BILL 37 **1974**

An Act to amend The Environmental Protection Act, 1971

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 1 of *The Environmental Protection Act, 1971*, being chapter 86, as amended by the Statutes of Ontario, 1972, chapter 1, section 69 and 1972, chapter 106, section 1, is further amended by adding thereto the following subsection: s. 1. amended

(2) In this Act, "the Director" means a Director appointed under section 3*a*. Idem. Director

2. The said Act is amended by adding thereto the following section: s. 3a. enacted

3*a*.—(1) The Minister shall appoint in writing such employees of the Ministry as he considers necessary as Directors in respect of such sections of this Act and in respect of such of the regulations or sections thereof as are set out in the appointments. Appointment of Directors

(2) The Minister, in an appointment pursuant to subsection 1, may limit the authority of a Director in such manner as the Minister considers necessary or advisable. Limitation of authority of Director

3. Section 4 of the said Act is repealed. s. 4. repealed

4. Subsection 1 of section 8 of the said Act, as re-enacted by the Statutes of Ontario, 1972, chapter 106, section 2, is amended by striking out "of the Air Management Branch of the Ministry" in the sixteenth and seventeenth lines. s. 8 (1). amended

5. Clause *a* of section 22 of the said Act is repealed. s. 22 (*a*). repealed

6. Section 25 of the said Act, as re-enacted by the Statutes of Ontario, 1973, chapter 94, section 3, is repealed. s. 25. repealed

7. Section 26 of the said Act is repealed. s. 26. repealed

s. 26*b*, repealed

8. Section 26*b* of the said Act, as enacted by the Statutes of Ontario, 1973, chapter 94, section 4, is repealed.

s. 27 (2), amended

9.—(1) Subsection 2 of section 27 of the said Act is amended by striking out "28*b*" in the second line and by striking out "or, in the case of a permit under section 28*b* of that Act by the Director under Part VI of this Act" in the seventh, eighth and ninth lines.

s. 27 (4), repealed

(2) Subsection 4 of the said section 27 is repealed.

s. 28 (*a*), repealed

10.—(1) Clause *a* of section 28 of the said Act, as amended by the Statutes of Ontario, 1972, chapter 106, section 5, is repealed.

s. 28 (*aa*), repealed

(2) Clause *aa* of the said section 28, as enacted by the Statutes of Ontario, 1972, chapter 106, section 5, is repealed.

ss. 33*a*, 33*b*, 33*c*, 33*d*, amended

11. Sections 33*a*, 33*b*, 33*c* and 33*d* of the said Act, as enacted by the Statutes of Ontario, 1972, chapter 106, section 7, are amended by striking out "Executive" wherever it occurs.

s. 33*e*, repealed

12. Section 33*e* of the said Act, as enacted by the Statutes of Ontario, 1972, chapter 106, section 7, is repealed.

s. 39 (1), amended

13.—(1) Subsection 1 of section 39 of the said Act, as amended by the Statutes of Ontario, 1972, chapter 106, section 10, is further amended by striking out "Executive" in the amendment of 1972.

s. 39 (2), amended

(2) Subsection 2 of the said section 39, as re-enacted by the Statutes of Ontario, 1972, chapter 106, section 10, is amended by striking out "Executive" in the first line.

ss. 42-45, amended

14. Sections 42, 43, 44 and 45 of the said Act, as amended by the Statutes of Ontario, 1972, chapter 106, sections 12, 13, 14 and 15, respectively, are further amended by striking out "Executive" in the amendments of 1972.

s. 46*a*, amended

15. Section 46*a* of the said Act, as enacted by the Statutes of Ontario, 1972, chapter 106, section 16, is amended by striking out "Executive" wherever it occurs.

s. 49 (*c*), repealed

16. Clause *c* of section 49 of the said Act, as re-enacted by the Statutes of Ontario, 1973, chapter 94, section 5, is repealed.

s. 55, repealed

17. Section 55 of the said Act, as re-enacted by the Statutes of Ontario, 1973, chapter 94, section 5, is repealed.

s. 56 (*a*, *b*), repealed

18. Clauses *a* and *b* of section 56 of the said Act, as re-enacted by the Statutes of Ontario, 1972, chapter 106, section 23, are repealed.

SECTION 8. The repeal is complementary to the enactment of new section 96*a* of the Act.

SECTION 9. The amendment is complementary to the repeal of section 38 of *The Ontario Water Resources Act* by *The Ontario Water Resources Amendment Act, 1973*. Section 38 was section 28*b* of *The Ontario Water Resources Commission Act*.

SECTION 10. Clauses *a* and *aa* of section 28 of the Act define the terms "Director" and "Executive Director" for the purposes of Part V of the Act. The repeal is complementary to the enactment of new sections 1 (2) and 3*a* of the Act.

SECTIONS 11 to 15. Complementary to new sections 1 (2) and 3*a* of the Act.

SECTION 16. Section 49 (c) defines the term "Director" for the purposes of Part VI of the Act. The repeal is complementary to the enactment of new sections 1 (2) and 3*a* of the Act.

SECTION 17. The repeal is complementary to the enactment of new section 96*a* of the Act.

SECTION 18. The clauses define "Director" and "Executive Director" for the purposes of Part VII of the Act. The repeal is complementary to the enactment of new sections 1 (2) and 3*a* of the Act.

SECTIONS 19 to 22. Complementary to new sections 1 (2) and 3*a* of the Act.

SECTION 23. Section 69 defines the term "Director" for the purposes of Part IX of the Act. The repeal is complementary to the enactment of new sections 1 (2) and 3*a* of the Act.

SECTION 24. Section 77*a* defines the term "Director" for the purposes of Part X of the Act. The repeal is complementary to the enactment of new sections 1 (2) and 3*a* of the Act.

SECTION 25. Section 84 (1) of the Act authorizes a provincial officer to make investigations and take samples. Under the amendment the liability of the Crown for the acts of a provincial officer will revert to the liability that exists under the common law.

SECTION 26. Section 91 defines the term "Director" for the purposes of Part XIII of the Act. The repeal is complementary to the enactment of new sections 1 (2) and 3*a* of the Act.

SECTION 27. The section protects members of the Environmental Appeal Board and of the Environmental Hearing Board, employees of the Ministry and Crown employees who are provincial officers or act under the direction of any of them from personal liability but does not prevent actions against the Crown.

19. Section 56*b* of the said Act, as enacted by the Statutes of Ontario, 1972, chapter 106, section 23, is repealed. s. 56*b*, repealed

20. Subsection 1 of section 60 of the said Act, as re-enacted by the Statutes of Ontario, 1972, chapter 106, section 24, is amended by striking out "Executive" in the twentieth line. s. 60 (1), amended

21. Subsection 3 of section 61*a* of the said Act, as enacted by the Statutes of Ontario, 1973, chapter 94, section 6, is amended by striking out "or the Executive Director, as the case may require" in the fourth and fifth lines. s. 61*a* (3), amended

22. Subsection 3 of section 61*b* of the said Act, as enacted by the Statutes of Ontario, 1973, chapter 94, section 6, is amended by striking out "Executive" in the second line. s. 61*b* (3), amended

23. Section 69 of the said Act is repealed. s. 69, repealed

24. Section 77*a* of the said Act, as enacted by the Statutes of Ontario, 1972, chapter 106, section 27, is repealed. s. 77*a*, repealed

25. Subsection 1 of section 84 of the said Act, as re-enacted by the Statutes of Ontario, 1973, chapter 94, section 8, is amended by striking out "and the Crown is liable for any damage or actual costs occasioned thereby" in the ninth and tenth lines. s. 84 (1), amended

26. Section 91 of the said Act, as re-enacted by the Statutes of Ontario, 1972, chapter 106, section 30, is repealed. s. 91, repealed

27. The said Act is further amended by adding thereto the following section: s. 96*a*, enacted

96*a*.—(1) Except in the case of an application for judicial review or an action or proceeding that is specifically provided for with respect to a person referred to in this subsection in any Act or in a regulation under this or any other Act, no action or other proceeding for damages or otherwise shall be instituted against an employee of the Ministry, a member of the Board or of the Hearing Board or a Crown employee within the meaning of *The Public Service Act* who is a provincial officer or is acting under the direction of an employee of the Ministry, or such member or provincial officer for any act done in good faith in the execution or intended execution of any duty or authority under this Act or for any alleged neglect or default in the execution in good faith of any such duty or authority. Protection from personal liability R.S.O. 1970, c. 386

(2) Subsection 1 does not, by reason of subsections 2 and 4 of section 5 of *The Proceedings Against the Crown Act*, relieve the Crown of liability in respect of a tort committed by an Crown not relieved of liability R.S.O. 1970, c. 365

agent or servant of the Crown to which it would otherwise be subject and the Crown is liable under that Act for any such tort in a like manner as if subsection 1 had not been enacted.

s. 101, re-enacted

28. Section 101 of the said Act is repealed and the following substituted therefor:

False information

101. No person shall knowingly give false information in any application, return or statement made to the Minister, a provincial officer or any employee of the Ministry in respect of any matter under this Act or the regulations.

Interim provision

29. The exercise on or after the 1st day of April, 1974 and before this Act receives Royal Assent of any power, duty or authority under *The Environmental Protection Act, 1971*, as amended by this Act, by a Director appointed under section *3a* of *The Environmental Protection Act, 1971*, as amended by this Act, that by this Act is vested in such Director shall be deemed to have been exercised under *The Environmental Protection Act, 1971*, as amended by this Act.

Commencement

30.—(1) This Act, except sections 8 and 10, shall be deemed to have come into force on the 1st day of April, 1974.

Idem

(2) Sections 8 and 10 come into force on a day to be named by proclamation of the Lieutenant Governor.

Short title

31. This Act may be cited as *The Environmental Protection Amendment Act, 1974*.

SECTION 28. The section is re-enacted for purposes of clarification and to include employees of the Ministry and provincial officers.

SECTION 29 Self-explanatory.

An Act to amend
The Environmental Protection Act, 1971

1st Reading

April 23rd, 1974

2nd Reading

3rd Reading

THE HON. W. NEWMAN
Minister of the Environment

(*Government Bill*)

1974

BILL 37

4TH SESSION, 29TH LEGISLATURE, ONTARIO
23 ELIZABETH II, 1974

An Act to amend The Environmental Protection Act, 1971

THE HON. W. NEWMAN
Minister of the Environment

TORONTO
PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO

BILL 37 **1974**

An Act to amend The Environmental Protection Act, 1971

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 1 of *The Environmental Protection Act, 1971*, being chapter 86, as amended by the Statutes of Ontario, 1972, chapter 1, section 69 and 1972, chapter 106, section 1, is further amended by adding thereto the following subsection: s. 1. amended

(2) In this Act, "the Director" means a Director appointed under section 3*a*. Idem. Director

2. The said Act is amended by adding thereto the following section: s. 3a. enacted

3a.—(1) The Minister shall appoint in writing such employees of the Ministry as he considers necessary as Directors in respect of such sections of this Act and in respect of such of the regulations or sections thereof as are set out in the appointments. Appointment of Directors

(2) The Minister, in an appointment pursuant to subsection 1, may limit the authority of a Director in such manner as the Minister considers necessary or advisable. Limitation of authority of Director

3. Section 4 of the said Act is repealed. s. 4. repealed

4. Subsection 1 of section 8 of the said Act, as re-enacted by the Statutes of Ontario, 1972, chapter 106, section 2, is amended by striking out "of the Air Management Branch of the Ministry" in the sixteenth and seventeenth lines. s. 8 (1). amended

5. Clause *a* of section 22 of the said Act is repealed. s. 22 (a). repealed

6. Section 25 of the said Act, as re-enacted by the Statutes of Ontario, 1973, chapter 94, section 3, is repealed. s. 25. repealed

7. Section 26 of the said Act is repealed. s. 26. repealed

s. 26*b*, repealed

8. Section 26*b* of the said Act, as enacted by the Statutes of Ontario, 1973, chapter 94, section 4, is repealed.

s. 27 (2), amended

9.—(1) Subsection 2 of section 27 of the said Act is amended by striking out "28*b*" in the second line and by striking out "or, in the case of a permit under section 28*b* of that Act, by the Director under Part VI of this Act" in the seventh, eighth and ninth lines.

s. 27 (4), repealed

(2) Subsection 4 of the said section 27 is repealed.

s. 28 (*a*), repealed

10.—(1) Clause *a* of section 28 of the said Act, as amended by the Statutes of Ontario, 1972, chapter 106, section 5, is repealed.

s. 28 (*aa*), repealed

(2) Clause *aa* of the said section 28, as enacted by the Statutes of Ontario, 1972, chapter 106, section 5, is repealed.

ss. 33*a*, 33*b*, 33*c*, 33*d*, amended

11. Sections 33*a*, 33*b*, 33*c* and 33*d* of the said Act, as enacted by the Statutes of Ontario, 1972, chapter 106, section 7, are amended by striking out "Executive" wherever it occurs.

s. 33*e*, repealed

12. Section 33*e* of the said Act, as enacted by the Statutes of Ontario, 1972, chapter 106, section 7, is repealed.

s. 39 (1), amended

13.—(1) Subsection 1 of section 39 of the said Act, as amended by the Statutes of Ontario, 1972, chapter 106, section 10, is further amended by striking out "Executive" in the amendment of 1972.

s. 39 (2), amended

(2) Subsection 2 of the said section 39, as re-enacted by the Statutes of Ontario, 1972, chapter 106, section 10, is amended by striking out "Executive" in the first line.

ss. 42-45, amended

14. Sections 42, 43, 44 and 45 of the said Act, as amended by the Statutes of Ontario, 1972, chapter 106, sections 12, 13, 14 and 15, respectively, are further amended by striking out "Executive" in the amendments of 1972.

s. 46*a*, amended

15. Section 46*a* of the said Act, as enacted by the Statutes of Ontario, 1972, chapter 106, section 16, is amended by striking out "Executive" wherever it occurs.

s. 49 (*c*), repealed

16. Clause *c* of section 49 of the said Act, as re-enacted by the Statutes of Ontario, 1973, chapter 94, section 5, is repealed.

s. 55, repealed

17. Section 55 of the said Act, as re-enacted by the Statutes of Ontario, 1973, chapter 94, section 5, is repealed.

s. 56 (*a*, *b*), repealed

18. Clauses *a* and *b* of section 56 of the said Act, as re-enacted by the Statutes of Ontario, 1972, chapter 106, section 23, are repealed.

19. Section 56*b* of the said Act, as enacted by the Statutes of Ontario, 1972, chapter 106, section 23, is repealed. s. 56*b*, repealed

20. Subsection 1 of section 60 of the said Act, as re-enacted by the Statutes of Ontario, 1972, chapter 106, section 24, is amended by striking out "Executive" in the twentieth line. s. 60 (1), amended

21. Subsection 3 of section 61*a* of the said Act, as enacted by the Statutes of Ontario, 1973, chapter 94, section 6, is amended by striking out "or the Executive Director, as the case may require" in the fourth and fifth lines. s. 61*a* (3), amended

22. Subsection 3 of section 61*b* of the said Act, as enacted by the Statutes of Ontario, 1973, chapter 94, section 6, is amended by striking out "Executive" in the second line. s. 61*b* (3), amended

23. Section 69 of the said Act is repealed. s. 69, repealed

24. Section 77*a* of the said Act, as enacted by the Statutes of Ontario, 1972, chapter 106, section 27, is repealed. s. 77*a*, repealed

25. Subsection 1 of section 84 of the said Act, as re-enacted by the Statutes of Ontario, 1973, chapter 94, section 8, is amended by striking out "and the Crown is liable for any damage or actual costs occasioned thereby" in the ninth and tenth lines. s. 84 (1), amended

26. Section 91 of the said Act, as re-enacted by the Statutes of Ontario, 1972, chapter 106, section 30, is repealed. s. 91, repealed

27. The said Act is further amended by adding thereto the following section: s. 96*a*, enacted

96*a*.—(1) Except in the case of an application for judicial review or an action or proceeding that is specifically provided for with respect to a person referred to in this subsection in any Act or in a regulation under this or any other Act, no action or other proceeding for damages or otherwise shall be instituted against an employee of the Ministry, a member of the Board or of the Hearing Board or a Crown employee within the meaning of *The Public Service Act* who is a provincial officer or is acting under the direction of an employee of the Ministry, or such member or provincial officer for any act done in good faith in the execution or intended execution of any duty or authority under this Act or for any alleged neglect or default in the execution in good faith of any such duty or authority. Protection from personal liability; R.S.O. 1970, c. 386

(2) Subsection 1 does not, by reason of subsections 2 and 4 of section 5 of *The Proceedings Against the Crown Act*, relieve the Crown of liability in respect of a tort committed by an Crown not relieved of liability; R.S.O. 1970, c. 365

agent or servant of the Crown to which it would otherwise be subject and the Crown is liable under that Act for any such tort in a like manner as if subsection 1 had not been enacted.

s. 101. re-enacted

28. Section 101 of the said Act is repealed and the following substituted therefor:

False information

101. No person shall knowingly give false information in any application, return or statement made to the Minister, a provincial officer or any employee of the Ministry in respect of any matter under this Act or the regulations.

Interim provision

29. The exercise on or after the 1st day of April, 1974 and before this Act receives Royal Assent of any power, duty or authority under *The Environmental Protection Act, 1971*, as amended by this Act, by a Director appointed under section *3a* of *The Environmental Protection Act, 1971*, as amended by this Act, that by this Act is vested in such Director shall be deemed to have been exercised under *The Environmental Protection Act, 1971*, as amended by this Act.

Commencement

30.—(1) This Act, except sections 8 and 10, shall be deemed to have come into force on the 1st day of April, 1974.

Idem

(2) Sections 8 and 10 come into force on a day to be named by proclamation of the Lieutenant Governor.

Short title

31. This Act may be cited as *The Environmental Protection Amendment Act, 1974*.

An Act to amend
The Environmental Protection Act, 1971

1st Reading

April 23rd, 1974

2nd Reading

June 11th, 1974

3rd Reading

June 11th, 1974

THE HON. W. NEWMAN
Minister of the Environment

1974

BILL 38 **Private Member's Bill**

4TH SESSION, 29TH LEGISLATURE, ONTARIO
23 ELIZABETH II, 1974

An Act to amend The Public Hospitals Act

MR. ROY

TORONTO
PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO

Explanatory Note

The Bill provides for appeal directly to the Court of Appeal and requires that a decision of the Appeal Board remains in force and effect until the Court renders its decision.

BILL 38 1974

An Act to amend The Public Hospitals Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Subsection 1 of section 50 of *The Public Hospitals Act*, being chapter 378 of the Revised Statutes of Ontario, 1970, as enacted by the Statutes of Ontario, 1972, chapter 90, section 23, is repealed and the following substituted therefor: s. 50 (1), re-enacted

(1) Any party to proceedings before the Appeal Board may appeal from its decision to the Court of Appeal in accordance with the rules of Court. Appeal from decision of Appeal Board

(1*a*) Where any party appeals from a decision of the Appeal Board, the decision of the Appeal Board shall remain in force and effect until the decision of the Court is rendered. Decision of Appeal Board to remain in force

2. This Act comes into force on the day it receives Royal Assent. Commencement

3. This Act may be cited as *The Public Hospitals Amendment Act, 1974*. Short title

An Act to amend
The Public Hospitals Act

1st Reading

April 23rd, 1974

2nd Reading

3rd Reading

MR. ROY

(*Private Member's Bill*)

1974

BILL 39 Government Bill

4TH SESSION, 29TH LEGISLATURE, ONTARIO
23 ELIZABETH II, 1974

An Act to amend The Pesticides Act, 1973

THE HON. W. NEWMAN
Minister of the Environment

TORONTO
PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO

Explanatory Notes

Section 1. Self-explanatory.

Section 2. Self-explanatory.

Section 3. The subsection is amended to extend protection from personal liability to employees of the Ministry and Crown employees who are provincial officers or act under the direction of any of the persons referred to in the subsection for acts done in good faith under the authority of the Act but does not prevent actions against the Crown.

BILL 39 **1974**

An Act to amend The Pesticides Act, 1973

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) Paragraph 4 of section 1 of *The Pesticides Act, 1973*, being chapter 25, is repealed. s. 1, par. 4, repealed

(2) The said section 1 is amended by adding thereto the following subsection: s. 1, amended

(2) In this Act, "the Director" means a Director appointed under section 2*a*. Idem, Director

2. The said Act is amended by adding thereto the following section: s. 2a, enacted

2*a*.—(1) The Minister shall appoint in writing such employees of the Ministry as he considers necessary as Directors in respect of such sections of this Act and in respect of such of the regulations or sections thereof as are set out in the appointments. Appointment of Directors

(2) The Minister, in an appointment pursuant to subsection 1, may limit the authority of a Director in such manner as the Minister considers necessary or advisable. Limitation of authority of Director

3. Subsection 1 of section 16 of the said Act is repealed and the following substituted therefor: s. 16 (1), re-enacted

(1) Except in the case of an application for judicial review or an action or proceeding that is specifically provided for with respect to a person referred to in this subsection in any Act or in a regulation under this or any other Act, no action or other proceeding for damages or otherwise shall be instituted against an employee of the Ministry, a member of the Board or the Committee or a Crown employee within the meaning of *The Public Service Act* who is a provincial officer or is acting under the Protection from personal liability R.S.O. 1970, c. 386

direction of an employee of the Ministry, or such member or provincial officer for any act done in good faith in the execution or intended execution of any duty or authority under this Act or for any alleged neglect or default in the execution in good faith of any such duty or authority.

s. 17 (2), amended

4. Subsection 2 of section 17 of the said Act is amended by striking out "and the Crown is liable for any damage or actual costs occasioned thereby" in the tenth and eleventh lines.

s. 30, amended

5. Section 30 of the said Act is amended by striking out "such fees as he" in the first line and inserting in lieu thereof "for payment to the Treasurer of Ontario such fees as the Minister".

s. 33, re-enacted

6. Section 33 of the said Act is repealed and the following substituted therefor:

False information

33. No person shall knowingly give false information in any application, return or statement made to the Minister, a provincial officer or any employee of the Ministry in respect of any matter under this Act or the regulations.

Commencement

7. This Act comes into force on a day to be named by proclamation of the Lieutenant Governor.

Short title

8. This Act may be cited as *The Pesticides Amendment Act, 1974*.

SECTION 4. Section 17 (2) of the Act authorizes a provincial officer to make investigations and take samples. Under the amendment the liability of the Crown for the acts of a provincial officer will revert to the liability that exists under the common law.

SECTION 5. Section 30 of the Act authorizes the collection of fees for copies of documents and other materials provided by the Ministry.

SECTION 6. The section is re-enacted for purposes of clarification.

An Act to amend
The Pesticides Act, 1973

1st Reading

April 23rd, 1974

2nd Reading

3rd Reading

THE HON. W. NEWMAN
Minister of the Environment

(*Government Bill*)

1974

BILL 39

4TH SESSION, 29TH LEGISLATURE, ONTARIO
23 ELIZABETH II, 1974

An Act to amend The Pesticides Act, 1973

THE HON. W. NEWMAN
Minister of the Environment

TORONTO
PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO

BILL 39 **1974**

An Act to amend The Pesticides Act, 1973

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) Paragraph 4 of section 1 of *The Pesticides Act, 1973*, being chapter 25, is repealed. s. 1. par 4. repealed

(2) The said section 1 is amended by adding thereto the following subsection: s. 1. amended

(2) In this Act, "the Director" means a Director appointed under section 2*a*. Idem. Director

2. The said Act is amended by adding thereto the following section: s. 2a. enacted

2*a*.—(1) The Minister shall appoint in writing such employees of the Ministry as he considers necessary as Directors in respect of such sections of this Act and in respect of such of the regulations or sections thereof as are set out in the appointments. Appointment of Directors

(2) The Minister, in an appointment pursuant to subsection 1, may limit the authority of a Director in such manner as the Minister considers necessary or advisable. Limitation of authority of Director

3. Subsection 1 of section 16 of the said Act is repealed and the following substituted therefor: s. 16 (1). re-enacted

(1) Except in the case of an application for judicial review or an action or proceeding that is specifically provided for with respect to a person referred to in this subsection in any Act or in a regulation under this or any other Act, no action or other proceeding for damages or otherwise shall be instituted against an employee of the Ministry, a member of the Board or the Committee or a Crown employee within the meaning of *The Public Service Act* who is a provincial officer or is acting under the Protection from personal liability R.S.O. 1970. c. 386

direction of an employee of the Ministry, or such member or provincial officer for any act done in good faith in the execution or intended execution of any duty or authority under this Act or for any alleged neglect or default in the execution in good faith of any such duty or authority.

s. 17 (2), amended

4. Subsection 2 of section 17 of the said Act is amended by striking out "and the Crown is liable for any damage or actual costs occasioned thereby" in the tenth and eleventh lines.

s. 30, amended

5. Section 30 of the said Act is amended by striking out "such fees as he" in the first line and inserting in lieu thereof "for payment to the Treasurer of Ontario such fees as the Minister".

s. 33, re-enacted

6. Section 33 of the said Act is repealed and the following substituted therefor:

False information

33. No person shall knowingly give false information in any application, return or statement made to the Minister, a provincial officer or any employee of the Ministry in respect of any matter under this Act or the regulations.

Commencement

7. This Act comes into force on a day to be named by proclamation of the Lieutenant Governor.

Short title

8. This Act may be cited as *The Pesticides Amendment Act, 1974*.

An Act to amend
The Pesticides Act, 1973

1st Reading

April 23rd, 1974

2nd Reading

June 11th, 1974

3rd Reading

June 11th, 1974

THE HON. W. NEWMAN
Minister of the Environment

BILL 40 **Private Member's Bill**

4TH SESSION, 29TH LEGISLATURE, ONTARIO
23 ELIZABETH II, 1974

An Act to provide for Rent Control and Security of Tenure

MR. CASSIDY

TORONTO
PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO

Explanatory Note

The purpose of the Bill is to set guidelines to govern rent determinations and to provide tenants with security of tenure.

Starting from the actual rents that prevailed on December 31, 1972, rent increases for residential accommodation in major Ontario cities should be justified only in relation to increases in costs and not in relation to scarcity, the increase in rents on new accommodation, or speculative factors.

The intention is that most rent settlements would continue to be made without reference to government, but that the Ontario Landlord and Tenant Tribunal established in the Act, as well as the network of rent regulation officers located in major cities around the Province, would be available to tenants or to landlords in order to mediate or to resolve questions of rent and the relations between landlords and tenants.

A tenant or landlord could apply to the rent regulation officer for informal conciliation in cases where there was a dispute with the other party over the level of rent or over other terms of a lease. If informal conciliation failed, then the rent officer could examine the landlord's books, consider the case put by the two sides, and make a rent determination. Should either party disagree, they could appeal the rent officer's decision to the Ontario Landlord and Tenant Tribunal which would make a final binding decision within thirty days.

The second major principle is this: In order to protect their bargaining rights and to bring tenants' position closer to the dignity enjoyed by home-owners' a tenant who fulfilled his normal obligations would be guaranteed security of tenure. No order of eviction or termination of lease would be effective without the approval of the tribunal, and the grounds for an eviction or termination of lease will be limited to wilful non-payment of rent, undue nuisance, undue damage to the landlord's property, or where the landlord or a relative wishes to occupy the property (this right may only be exercised once every five years, and on the demonstration of need).

Tenants would be empowered to exercise their rights under the Act as groups as well as individually.

BILL 40 **1974**

An Act to provide for Rent Control and Security of Tenure

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

PART I

INTERPRETATION

Interpretation

1. In this Act,

(*a*) "landlord" includes a lessor, owner or person giving or permitting the occupation of premises;

(*b*) "rent" means payment of any kind to a landlord for the provision of accommodation and any services relating to that accommodation;

(*c*) "rent determination" means the fixing of a dollar value for rent and shall be deemed to take place at the commencement of a new tenancy, the signing or renewal of a lease, the transfer of a lease or where there is a change in the amount of rent, for a rent period;

(*d*) "residential premises" means a premises used for residential purposes and includes a furnished room except where the furnished room is in a premises where a landlord is renting less than three furnished rooms.

(*e*) "tenant" includes a lessee, occupant or subtenant;

(*f*) "Tribunal" means the Ontario Landlord and Tenant Tribunal established under this Act.

PART II

APPLICATION

Application

2.—(1) Subject to subsection 2, this Act applies to all premises on which rent is paid where the premises is located in a municipality having a population of more than 100,000 persons.

Idem

(2) The jurisdiction and powers of the director, the rent regulation officer, and of the Tribunal shall be effective in municipalities with a population of less than 100,000 where the municipal council has, by by-law, declared its intention to permit the director and the Tribunal to operate, but any repeal of such by-law shall not have effect for five years from its passage or for a period of one year of the passage of the repeal by-law, whichever period is greater.

PART III

RENT REGULATION

Director

3.—(1) There shall be a rent regulation director who shall be appointed by the Lieutenant Governor in Council.

Powers and duties

(2) The director shall exercise the powers and shall discharge the duties conferred and imposed upon him by this Act and the regulations under the supervision of the Attorney General.

Rent regulation officer

(3) A rent regulation officer or officers shall be appointed with an office in each municipality where rent regulation applies.

Duties of a rent regulation officer

(4) A rent regulation officer shall,

(*a*) advise landlords and tenants in tenancy matters;

(*b*) receive complaints and seek to mediate disputes between landlords and tenants;

(*c*) disseminate information for the purpose of educating and advising landlords and tenants concerning rental practices, rights and remedies;

(*d*) upon written application from a landlord or tenant make a rent determination based on the principles set out in this Act.

4. A rent regulation officer may, with the written consent of a landlord and tenant, exercise all the powers conferred under this Act to the Tribunal, provided that a decision made by a rent regulation officer under this section shall be communicated in writing to both parties and may be appealed within fifteen days to the Tribunal. **Rent determination by a rent regulation officer**

5. Where a rent regulation officer is making a rent determination or acting under section 3, he shall have free access to any accounts, financial statements, mortgages or any other information necessary in order to verify statements submitted by the landlord or the tenant and upon submission to the rent regulation officer or the Tribunal, such statements shall also be submitted to the other contending parties. **Access to accounts, etc.**

6. A record of every rent determination for a particular rented premises shall be submitted by the landlord to the rent regulation officer in the municipality in which the premises are located within five days of the making of the rent determination, and a copy of the rent determination together with a copy of the two immediately previous rent determinations, if such determinations took place, pertaining to the same premises shall be sent to both the landlord and the tenant. **Record of rent determination**

7. A landlord or a tenant may appeal in writing to the rent regulation officer within fifteen days of the receipt of notification given under section 5, and after notifying the two parties, the rent regulation officer shall make a new determination of rent within fifteen days of receipt of the appeal. **Appeal**

8.—(1) A rent determination made by a rent regulation officer or by the Tribunal shall be based on the principle that rents prevailing as of the 31st day of December, 1972, on a rented premises should be permitted to increase only because of proven increases in costs for maintenance, heating, supervision, utilities, the reasonably amortized costs of rehabilitation, and any other appropriate operating costs, that decreases in such costs, the withdrawal of services or the deterioration of the property may justify a reduction of rent, and that changes in rent may be justified by a shift in contractual obligations agreed upon between a landlord and a tenant. **Permitted rent increases**

(2) In the case of a dwelling rented for the first time after the 1st day of January, 1973, a rent determination shall be based on the principles set out in this section and may also be related to a fair return on the original capital cost of the dwelling. **Idem**

9.—(1) All tenancies of more than three months duration shall conform to one of the standard lease forms as prescribed **Standard form of lease**

in the regulations and any change from the wording of a standard lease form or change from one standard lease form to another must be agreed to by both parties to the lease and such changes shall be reported to the local rent regulation officer in the same manner as a new rent determination.

Enforcement of a lease

(2) A lease on a residential premises shall be enforceable upon a written application to the Tribunal, which for the purposes of this section shall have all the powers of a county or district court.

Trust fund

10.—(1) Where a landlord fails to fulfil his covenants under a lease, a tenant may pay any rent due or owing into a trust fund supervised by the rent regulation officer in his municipality.

When money to be paid into trust fund

(2) A rent regulation officer shall pay to a landlord rents deposited in a trust fund under subsection 1 when,

(*a*) the landlord has fulfilled the covenants specified by the tenant;

(*b*) the rent regulation officer has determined the landlord has fulfilled the covenants that were specified by the tenant; or

(*c*) the rent regulation officer has determined that there was no breach of covenant by the landlord.

Appeal to Tribunal

(3) A decision of the rent regulation officer under this section may be appealed in writing to the Tribunal.

Rent determination by rent regulation officer

11.—(1) Where a landlord and a tenant are unable to agree to a lease or to a new rent determination, either party may seek a rent determination by application in writing to the local rent regulation officer who shall deliver his decision within fifteen days and no new rent determination under this section and no termination of lease shall take effect until fifteen days after the rent regulation officer has delivered his decision, and all such decisions may be appealed to the Tribunal upon notice within fifteen days of the decision of a rent regulation officer.

Notice to parties

(2) On receipt of an appeal or request for a rent determination under section 6 or 9, the rent regulation officer shall notify both parties, shall meet with both parties or their representatives, and shall submit or give access to both parties to any written information that either submits pertaining to the rent determination.

12. Every clause in a lease directly or indirectly intended to vary the rent during the course of a lease is without effect. Clause to vary rent invalid

13.—(1) No landlord shall refuse a tenancy by reason of race, creed, sex, colour, nationality, ethnic origin, place of birth, language, age or marital status, source of income or political affiliation. No refusal for race, sex, colour, etc.

(2) No landlord shall change the rights of a lessee by reasons of an increase in the number of occupants of a dwelling unless the space of the dwelling warrants it. Change in rights of lessee

(3) No landlord shall refuse a tenancy to a person by reason of the number of persons intending to occupy a dwelling, unless the space of the dwelling warrants it. Refusal of tenancy due to space

(4) For the purposes of this section, no limitation of space shall be deemed to apply where the space available in the rented premises exceeds 250 square feet for each adult and 125 square feet for each child under the age of eighteen occupying or intending to occupy the premises. Idem

(5) Notwithstanding subsection 1, a landlord may restrict occupancy in a building to tenants aged sixty and over. Idem

14. The rent regulation officer in each municipality covered by this Act shall maintain a record of all rent determinations notified to him for rented premises in that particular municipality and shall make available the records for a particular building to any *bona fide* tenant of that building during normal business hours. Record to be kept of rent determinations

15. No rent increase applicable within a particular year shall exceed 5 per cent of the rent determination recorded in the previous year, or the last previous rent determination if that was earlier than the previous year, notwithstanding any evidence of increased expenses or rehabilitation costs submitted by the landlord. Rent increase limited to 5 per cent

16. The payment of a capital sum at the commencement of a new tenancy is deemed to be an advance payment of rent and no tenant shall be liable to begin paying rent until the month after the month in which the cumulated rent that would otherwise be payable under the lease exceeds the amount of the capital payment that has been made to the landlord or to his agent. Payment of capital sum deemed advance on rent

17. In the case of an application or appeal to the rent regulation officer or the Tribunal for rent determination, the tenant shall have access to any statements submitted by the landlord to justify the change in rent, and the landlord shall Access to statements on appeal by tenant

be obliged to supply to the tenant and to the rent regulation officer or Tribunal an annual statement of costs and expenses for the building demonstrating how costs have risen in relation to the particular unit concerned.

PART IV

LANDLORD AND TENANT TRIBUNAL

Tribunal

18.—(1) There shall be a Tribunal known as the Ontario Landlord and Tenant Tribunal composed of such members as are appointed under subsection 5.

Duties of Tribunal

(2) The Tribunal shall hear and decide,

(*a*) appeals of decisions made by rent regulation officers under this Act; and

(*b*) all other such matters referred to it under this Act or any other Act.

Decisions of Tribunal binding

(3) All decisions of the Tribunal shall be binding and subject to appeal only on points of law, provided that the Tribunal may consider a rent determination again no less than one year from the time it has previously been brought before the Tribunal and may reconsider any other matter upon re-application by the landlord or tenant.

Tribunal may levy costs

(4) Where the Tribunal determines that a landlord or a tenant is using the Tribunal for the purposes of harassment, the Tribunal may levy all or part of the costs of hearings caused or instigated by that landlord or tenant.

Appointment of members of Tribunal

(5) Subject to subsection 6, the Lieutenant Governor in Council shall appoint no less than ten and no more than twenty members to the Tribunal and shall appoint one of such members, who shall be a full-time member, as Chairman and may appoint one or more other such members as Vice-Chairmen.

Term of office

(6) Members shall serve for a fixed term of five years and may be reappointed once.

Nine members to be full-time

(7) No less than nine members of the Tribunal shall be full-time members.

Constitution of membership of Tribunal

(8) Appointments to the Tribunal shall be broadly representative of the people of Ontario with particular regard to income, property tenure, geographical distribution and sex, and every member on his appointment, and at the beginning

of every year thereafter, shall file for public inspection with the Secretary of the Tribunal a full statement of the property interests, investments, and paid directorships or positions held by himself and his immediate family.

(9) Three members of the Tribunal constitute a quorum and may exercise all the powers of the Tribunal. Quorum

(10) The Chairman shall have general supervision and direction over the conduct of the affairs of the Tribunal, and shall arrange the sittings of the Tribunal and assign members to conduct hearings as circumstances require. Chairman to have direction and supervision

(11) The Tribunal may retain experts to advise it in respect of any particular matter coming before it or in respect of general matters respecting rental accommodation and landlord and tenant relations. Retention of experts

(12) The Tribunal shall prepare and periodically publish a summary of its decisions and the reasons therefor, and a file of these summaries shall be maintained accessible to the public at every rent regulation office. Publishing of decision of Tribunal

19. Appeals under this Act shall be made by written notice and the Tribunal shall send a copy of the notice of appeal to all interested parties and shall fix a hearing date and place in or near the municipality where the rented dwelling is located and shall hold its hearing within fifteen days of receipt of the appeal. Appeals to be made by written notice

20.—(1) On any appeal, the Tribunal shall deliver its decision within thirty days of the hearing and no eviction, rent increase, or other change affecting the status of the tenant or the landlord shall be made until the decision of the Tribunal has been notified to both parties by registered mail. Decision in 30 days

(2) The Tribunal shall have the power to order payments by a landlord to a tenant in case of breach of covenant in the lease or overpayment of rent, and shall have the power to order payment of rent due or owing by a tenant to a landlord. Tribunal can order payments

PART V

SECURITY OF TENURE

21. In order to guarantee security of tenure to tenants who fulfill their normal obligations, Security of tenure

(*a*) no order of eviction shall be enforceable without the approval of the Tribunal; and

(*b*) every lease of a residential premises for a fixed period shall be, at the expiry of its term, extended of right as a month-to-month tenancy unless the parties agree to a different extension; and

(*c*) a lessor wishing to terminate a lease without the agreement of the lessee must give notice of the grounds for the termination in writing and seek a hearing from the Tribunal no less than thirty days before the expiry of the lease.

Grounds for eviction or termination

22.—(1) No eviction or termination of lease shall be approved by the Tribunal except on the grounds of,

(*a*) wilful non-payment of rent for more than fifteen days after the expiry of the rent period for which the rent was due;

(*b*) persistent and undue nuisance created by the tenant to neighbours or to the community;

(*c*) proven evidence that the tenant is using the premises for an illegal activity;

(*d*) permanent covercrowding of the premises according to the standards set out or accepted by the landlord at the commencement of the tenancy;

(*e*) undue damage to the rented property or its environs caused by the tenant or other occupants of the rented premises;

(*f*) need demonstrated, by the landlord or a relative of the landlord, to use the premises provided that this right may be exercised no more than once every five years.

Idem

(2) The Tribunal shall not be bound to approve an eviction where these grounds exist and may order alternative arrangements to settle the dispute between landlord and tenant.

Change of use or demolition of premises

23. A change of use or intention to demolish a rented premises is not grounds for eviction or termination of lease, but the Tribunal may approve an eviction or termination of lease if satisfactory alternative arrangements have been made by way of compensation or by way of finding alternative accommodation for the tenant and where an eviction or

termination of lease is granted under this section, the Tribunal shall order the landlord to make those alternative arrangements for the tenant which it considers to be satisfactory.

24. Where a lessee does not wish to extend a lease he shall give notice in writing to the lessor not less than thirty days before the expiry of the term of the lease and the landlord shall not oppose a non-extension of a lease under this section. Lessee not wishing to extend a lease

25. Where a lessor does not wish to extend a lease or wishes to increase the rent or change any other condition for the renewal or extension of a lease, he shall give notice in writing to the lessee at least thirty days before any expiry of the term of the lease, and shall inform the tenant of his right to appeal in a form as prescribed in the regulation. Lessor not wishing to extend a lease

26. A lessee wishing to remain on the premises at the terimination of a current lease may make an opposition to the notice of non-extension within fifteen days of the notice or, in exceptional circumstances, after the expiry of fifteen days of the notice. Remaining on premises after notice of non-extension

27. Where a notice of termination of a lease has been opposed, the termination shall take effect only after application to the Tribunal and after its approval is granted. Termination by Tribunal

28. Any period of notice or of appeal established under this Act may be extended by the Tribunal when the extension is justified by exceptional circumstances. Extension of time for notice or appeal

29.—(1) Any landlord in a municipality covered by this Act who evicts a tenant or terminates a lease contrary to the provisions of this Act is guilty of an offence and liable on summary conviction to a fine not exceeding $10,000. Offence

(2) Except for a landlord referred to in subsection 1, any person who knowingly contravenes a section of this Act is guilty of an offence and liable on summary conviction to a fine not exceeding $1,000. Idem

(3) For the purposes of this section, the Tribunal shall have all the powers of a provincial court. Tribunal has power of provincial court

30. For the purposes of this Act, any group of tenants renting dwellings from the same landlord may, by a signed declaration signed by each tenant in the group and filed with the rent regulation officer in the municipality, have all the powers and responsibilities of an individual tenant, including the right to negotiate with a landlord and the right to make Right of a group of tenants to act as a single tenant

applications or appeals as a group to a rent regulation officer or to the Tribunal.

Regulations

31. The Lieutenant Governor in Council may make regulations,

(*a*) prescribing the form of notice for appeals provided in this Act; and

(*b*) prescribing standard forms of leases.

Commencement

32. This Act comes into force on the 30th day of June, 1974.

Short title

33. This Act may be cited as *The Ontario Rent Control and Security of Tenure Act, 1974*.

An Act to provide for
Rent Control and Security of Tenure

1st Reading

April 23rd, 1974

2nd Reading

3rd Reading

MR. CASSIDY

(*Private Member's Bill*)

1974

BILL 41 **Private Member's Bill**

4TH SESSION, 29TH LEGISLATURE, ONTARIO
23 ELIZABETH II, 1974

An Act to amend The Ministry of Government Services Act, 1973

MR. SINGER

TORONTO
PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO

Explanatory Note

The Bill expands the present section of the Act to require tenders for the purchase of real or personal property exceeding $750.

BILL 41 **1974**

An Act to amend The Ministry of Government Services Act, 1973

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 13 of *The Ministry of Government Services Act, 1973*, being chapter 2, is repealed and the following substituted therefor: s. 13, re-enacted

13. Before the Minister, for and in the name of the Crown, enters into a contract in respect of the construction, renovation or repair of a public work or the purchase of any commodity or real property or interest therein, he shall invite tenders therefor, except, Tenders

(*a*) in cases of emergency where in the opinion of the Minister delay would be damaging; or

(*b*) where the estimated cost of the work is less than $750,

and the Minister shall report all cases referred to in clause *a* to the Legislature forthwith, if it is in session or, if not, at the next ensuing session.

2. This Act comes into force on the day it receives Royal Assent. Commencement

3. This Act may be cited as *The Ministry of Government Services Amendment Act, 1974*. Short title

An Act to amend
The Ministry of Government
Services Act, 1973

1st Reading

April 25th, 1974

2nd Reading

3rd Reading

MR. SINGER

(*Private Member's Bill*)

1974

BILL 42 **Private Member's Bill**

4TH SESSION, 29TH LEGISLATURE, ONTARIO
23 ELIZABETH II, 1974

An Act relating to the Installation of Automatic Fire Extinguishing Systems in Buildings

MR. DEANS

TORONTO
PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO

Explanatory Note

The Bill provides that buildings or structures over three storeys in height or 45 feet in height to the roof line above grade be equipped with approved automatic fire extinguishing systems.

BILL 42 **1974**

An Act relating to the Installation of Automatic Fire Extinguishing Systems in Buildings

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. In this Act, Interpretation

(*a*) "Fire Marshal" means the Fire Marshal of Ontario;

(*b*) "regulations" means the regulations made under this Act.

2.—(1) No person shall construct, reconstruct or renovate any building or structure which exceeds three storeys in height or 45 feet in height to the roof line above grade unless the building or structure is equipped with an automatic fire extinguishing system of a type and in the locations prescribed by the regulations. Automatic fire extinguishing system required

(2) No building or structure referred to in subsection 1 shall be constructed, reconstructed or renovated, unless the plans for the automatic fire extinguishing system to be installed in the building or structure are approved by the Fire Marshal, Deputy Fire Marshal, a district deputy fire marshal or an assistant to the Fire Marshal as conforming with the requirements of this Act and the regulations. Plans to be approved

2. Every person who contravenes any of the provisions of this Act or the regulations is guilty of an offence and on summary conviction is liable to a fine of not more than $1500. Offence

3. The Lieutenant Governor in Council may make regulations prescribing the types and locations of automatic fire extinguishing systems that may be used in the buildings and structures referred to in subsection 1 of section 2. Regulations

Commencement

4. This Act comes into force on the day it receives Royal Assent.

Short title

5. This Act may be cited as *The Fire Protection Act, 1974*.

An Act relating to the Installation of Automatic Fire Extinguishing Systems in Buildings

---

1st Reading

April 25th, 1974

2nd Reading

3rd Reading

MR. DEANS

(*Private Member's Bill*)

1974

BILL 43 **Private Member's Bill**

4TH SESSION, 29TH LEGISLATURE, ONTARIO
23 ELIZABETH II, 1974

An Act to amend The Highway Traffic Act

MR. RIDDELL

TORONTO
PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO

Explanatory Notes

Section 1.

Section 5*a* outlines the necessary qualifications for a school bus operator.

Section 5*b* provides for the retesting of school bus operators when their chauffeurs' licences are due for renewal.

Section 5*c* requires that school bus drivers attend all safety seminars sponsored by the Ministry.

Section 5*d* requires operators of school buses to report to the Ministry where they have refused to operate a school bus because they consider the vehicle to be unsafe, mechanically unfit or overloaded.

Section 2.

Subsections 2 and 3 are amended so that the duties of drivers are now extended to situations where a school bus may be travelling on that part of a highway where the speed limit is less than 35 miles per hour.

Subsection 4—self-explanatory.

Subsection 6—The amendment provides for school bus safety standards and a school bus patrol program. These standards incorporate the recommendations of the Ontario Public School Men Teachers Federation regarding school bus safety.

BILL 43 **1974**

An Act to amend The Highway Traffic Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. *The Highway Traffic Act*, being chapter 202 of the Revised Statutes of Ontario, 1970, is amended by adding thereto the following sections: ss. 5a-5d, enacted

5*a*.—(1) No person shall operate and no person shall employ a person to operate a motor vehicle when operated by or under contract with a school board or other authority to transport children to or from school unless the operator, Requirements for operators

(*a*) is between twenty-five and fifty-five years of age;

(*b*) holds a chauffeur's licence;

(*c*) has a driving record clear of any offences committed under this Act or under the *Criminal Code* (Canada); R.S.C. 1970, c. C-34

(*d*) is certified by a legally qualified medical practitioner to be in good health;

(*e*) proves that he is competent to drive a school bus and passes such tests or courses in,

(i) practical child psychology,

(ii) defensive driving,

(iii) highway safety, and

(iv) first aid,

as are required to be taken for the purpose and the Minister endorses his licence for the operation of a school bus; and

(*f*) drives a school bus as a full time occupation.

Idem

(2) No person shall operate and no person shall emplo a person to operate a motor vehicle when operated by o under contract with a school board or other authority t transport children to or from school unless the operato wears a seat belt at all times while driving the moto vehicle.

Retesting on renewal of licence

5*b*. Notwithstanding clause *e* of section 5*a* and subjec to the provisions of section 16, the operator of a moto vehicle used for transporting children to or from schoo and operated by or under contract with a school boar or other authority in charge of a school, shall submi to an examination,

(*a*) in respect of the operation of a motor vehicle; and

(*b*) by a legally qualified medical practitioner to ascertain the condition of the operator's health,

each year he applies for the renewal of his chauffeur's licence.

Attendance at safety seminars compulsory

5*c*. Every operator of a motor vehicle used for transporting children to or from school and operated by or under contract with a school board or other authority in charge of a school, shall as a condition of his employment, attend all safety meetings and school bus safety seminars sponsored by the Ministry as prescribed by the regulations.

Refusal to operate

5*d*.—(1) The operator of a motor vehicle used for transporting children to and from school and operated by or under contract with a school board or other authority in charge of a school may refuse to operate the vehicle where he considers the vehicle unsafe, mechanically unfit or overloaded to the extent that there are more passengers than there are seats.

Report to Ministry

(2) Where an operator refuses to operate a vehicle under subsection 1, he shall report forthwith to the Ministry,

(*a*) that he has refused to operate the vehicle; and

(*b*) the reasons for his refusing to operate the vehicle.

s. 120 (2, 3, 4, 6), re-enacted

2. Subsections 2, 3, 4 and 6 of section 120 of the said Act are repealed and the following substituted therefor:

Duty of driver when school bus stopped on highway

(2) Where a school bus is stopped on a highway or part of a highway for the purpose of receiving or discharging school children, the driver of a vehicle,

(*a*) when overtaking a school bus on which the words "do not pass when signals flashing" are marked and two red signal-lights are illuminated by intermittent flashes; and

(*b*) when meeting on such a highway, other than a highway with a median strip, a school bus on the front of which two red signal-lights are illuminated with intermittent flashes,

shall stop the vehicle before reaching the school bus and shall not proceed until the school bus resumes motion or the signal-lights are no longer operating.

Duty of driver of school bus to actuate signals

(3) The driver of such a school bus upon a highway or part of a highway, when he is about to stop the school bus for the purpose of receiving or discharging school children, shall actuate the signal-lights and shall continue them in operation while stopped for such purpose and, in the case of such a highway that does not have separate roadways, until those children who of necessity must cross the highway have completed the crossing.

Unloading requirements

(4) The driver of a school bus shall only unload persons while the vehicle is out of gear and the emergency brake is engaged.

. . . . .

Regulations re school buses

(6) The Lieutenant Governor in Council may make regulations,

(*a*) respecting the operation of vehicles or any class or type thereof used for transporting children to and from school and operated by or under contract with a school board or other authority in charge of a school;

(*b*) prescribing the type, design and colour of school buses or any class thereof and the markings to be displayed thereon;

(*c*) prescribing the type of flashproof padding to be used on the arms and backs of seats of school buses and requiring the use of any equipment, including seat belts, on or in such vehicles or any class or type thereof and prescribing the standards and specifications of such equipment including a minimum height of twenty-eight inches for the backs of seats;

(*d*) requiring the inspection of school buses or an class or type thereof at least four times a yea and requiring the reporting of any mechanicall unfit school bus to the Ministry and to th school board or other authority in charge of school which has contracted the use of the schoo bus;

(*e*) prescribing qualifications in addition to those se out in section 5*a* of drivers of school buses o any class or type thereof and prohibiting th operation thereof by unqualified persons;

(*f*) establishing school bus patrol and safety program in co-operation with the Ministry of Education;

(*g*) requiring the installation of amber flashing light and cross-over mirrors on school buses;

(*h*) prescribing the items of hardware that shall b built-in on school buses;

(*i*) requiring that the number of emergency exits or a school bus be at least four, excluding windows;

(*j*) establishing a system of driver awards for safe driving;

(*k*) prescribing the contents of first aid kits to be used on school buses;

(*l*) establishing a uniform set of investigative procedures for dealing with and reporting all accidents involving school buses;

(*m*) requiring the manufacturers of school buses and their agents to provide to purchasers, certification that the vehicles have been individually inspected and test driven and that they comply with this Act and the regulations; and

(*n*) establishing school bus safety seminars for the drivers of school buses and prescribing the areas in which such seminars shall be held.

Commencement

3. This Act comes into force on the day it receives Royal Assent.

Short title

4. This Act may be cited as *The Highway Traffic Amendment Act, 1974*.

An Act to amend
The Highway Traffic Act

1st Reading

April 25th, 1974

2nd Reading

3rd Reading

MR. RIDDELL

(*Private Member's Bill*)

1974

BILL 44 **Government Bill**

4TH SESSION, 29TH LEGISLATURE, ONTARIO
23 ELIZABETH II, 1974

An Act to amend The Forest Fires Prevention Act

THE HON. L. BERNIER
Minister of Natural Resources

TORONTO
PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO

Explanatory Notes

Section 1. The amendments reflect the change in organization from a Department to a Ministry and the change in name of the Ministry.

Section 2. The reference to fire districts is changed to a reference to fire regions. New fire regions will be established by regulation under section 35 of the Act and will replace the existing fire districts.

Section 3. Complementary to section 1.

Section 4. The reference to the Minister of Highways is changed to a reference to the Minister of Transportation and Communications.

Section 5. Complementary to sections 1 and 2.

BILL 44 **1974**

An Act to amend The Forest Fires Prevention Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) Clause *a* of section 1 of *The Forest Fires Prevention Act*, being chapter 179 of the Revised Statutes of Ontario, 1970, is repealed. s. 1 (*a*), repealed

(2) Clause *b* of the said section 1 is repealed and the following substituted therefor: s. 1 (*b*), re-enacted

(*b*) "Minister" means the Minister of Natural Resources;

(*ba*) "Ministry" means the Ministry of Natural Resources.

2. Subsection 1 of section 3 of the said Act is amended by striking out "districts" and inserting in lieu thereof "regions". s. 3 (1), amended

3. Subsection 2 of section 9 of the said Act is amended by striking out "Department" in the second line and inserting in lieu thereof "Ministry". s. 9 (2), amended

4. Clause *a* of subsection 1 of section 13 of the said Act is amended by striking out "Minister of Highways" in the third line and inserting in lieu thereof "Minister of Transporation and Communications". s. 13 (1) (*a*), amended

5.—(1) Subsection 1 of section 21 of the said Act is amended by striking out "district" in the second line and inserting in lieu thereof "region" and by striking out "Department" in the seventh line and inserting in lieu thereof "Ministry". s. 21 (1), amended

(2) Subsection 2 of the said section 21 is amended by striking out "Department" in the fourth line and inserting in lieu thereof "Ministry". s. 21 (2), amended

s. 23*a* (1), amended

6.—(1) Subsection 1 of section 23*a* of the said Act, as enacted by the Statutes of Ontario, 1971, chapter 50, section 41, is amended by striking out "forester for the forest" in the seventh line and inserting in lieu thereof "manager of any administrative" and by striking out "forester" in the ninth line and inserting in lieu thereof "manager".

s. 23*a* (3), amended

(2) Subsection 3 of the said section 23*a* is amended by striking out "forester" in the second line and in the third line and inserting in lieu thereof in each instance "manager".

s. 23*a* (4), amended

(3) Subsection 4 of the said section 23*a* is amended by striking out "forester" in the fourth line and inserting in lieu thereof "manager".

s. 30, amended

7. Section 30 of the said Act is amended by striking out "Department" in the third line and inserting in lieu thereof "Ministry".

s. 34 (1), amended

8. Subsection 1 of section 34 of the said Act is amended by striking out "Department" in the eighth line and inserting in lieu thereof "Ministry".

s. 35 (*a*), amended

9. Clause *a* of section 35 of the said Act is amended by striking out "districts" in the first line and inserting in lieu thereof "regions" and by striking out "district" in the second line and inserting in lieu thereof "region".

s. 36 (*a*), amended

10.—(1) Clause *a* of section 36 of the said Act is amended by striking out "district" in the fourth line and in the fifth line and inserting in lieu thereof in each instance "region".

s. 36 (*b*), amended

(2) Clause *b* of the said section 36 is amended by striking out "district" where it occurs in the first line and inserting in lieu thereof in each instance "region".

Commencement

11. This Act comes into force on the day it receives Royal Assent.

Short title

12. This Act may be cited as *The Forest Fires Prevention Amendment Act, 1974*.

SECTION 6.—Subsection 1. Two references to district forester are replaced with a reference to district manager. The position of district forester no longer exists.

Subsections 2 and 3. Complementary to subsection 1.

SECTIONS 7 and 8. Complementary to section 1.

SECTIONS 9 and 10. Complementary to section 2.

An Act to amend
The Forest Fires Prevention Act

1st Reading

April 25th, 1974

2nd Reading

3rd Reading

THE HON. L. BERNIER
Minister of Natural Resources

(*Government Bill*)

1974

BILL 44

4TH SESSION, 29TH LEGISLATURE, ONTARIO
23 ELIZABETH II, 1974

An Act to amend The Forest Fires Prevention Act

THE HON. L. BERNIER
Minister of Natural Resources

TORONTO
PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO

BILL 44 **1974**

An Act to amend The Forest Fires Prevention Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) Clause *a* of section 1 of *The Forest Fires Prevention Act*, being chapter 179 of the Revised Statutes of Ontario, 1970, is repealed. s. 1 (a), repealed

(2) Clause *b* of the said section 1 is repealed and the following substituted therefor: s. 1 (b), re-enacted

(*b*) "Minister" means the Minister of Natural Resources;

(*ba*) "Ministry" means the Ministry of Natural Resources.

2. Subsection 1 of section 3 of the said Act is amended by striking out "districts" and inserting in lieu thereof "regions". s. 3 (1), amended

3. Subsection 2 of section 9 of the said Act is amended by striking out "Department" in the second line and inserting in lieu thereof "Ministry". s. 9 (2), amended

4. Clause *a* of subsection 1 of section 13 of the said Act is amended by striking out "Minister of Highways" in the third line and inserting in lieu thereof "Minister of Transporation and Communications". s. 13 (1) (a), amended

5.—(1) Subsection 1 of section 21 of the said Act is amended by striking out "district" in the second line and inserting in lieu thereof "region" and by striking out "Department" in the seventh line and inserting in lieu thereof "Ministry". s. 21 (1), amended

(2) Subsection 2 of the said section 21 is amended by striking out "Department" in the fourth line and inserting in lieu thereof "Ministry". s. 21 (2), amended

s. 23a (1), amended

6.—(1) Subsection 1 of section 23*a* of the said Act, as enacted by the Statutes of Ontario, 1971, chapter 50, section 41, is amended by striking out "forester for the forest" in the seventh line and inserting in lieu thereof "manager of any administrative" and by striking out "forester" in the ninth line and inserting in lieu thereof "manager".

s. 23a (3), amended

(2) Subsection 3 of the said section 23*a* is amended by striking out "forester" in the second line and in the third line and inserting in lieu thereof in each instance "manager".

s. 23a (4), amended

(3) Subsection 4 of the said section 23*a* is amended by striking out "forester" in the fourth line and inserting in lieu thereof "manager".

s. 30, amended

7. Section 30 of the said Act is amended by striking out "Department" in the third line and inserting in lieu thereof "Ministry".

s. 34 (1), amended

8. Subsection 1 of section 34 of the said Act is amended by striking out "Department" in the eighth line and inserting in lieu thereof "Ministry".

s. 35 (a), amended

9. Clause *a* of section 35 of the said Act is amended by striking out "districts" in the first line and inserting in lieu thereof "regions" and by striking out "district" in the second line and inserting in lieu thereof "region".

s. 36 (a), amended

10.—(1) Clause *a* of section 36 of the said Act is amended by striking out "district" in the fourth line and in the fifth line and inserting in lieu thereof in each instance "region".

s. 36 (b), amended

(2) Clause *b* of the said section 36 is amended by striking out "district" where it occurs in the first line and inserting in lieu thereof in each instance "region".

Commencement

11. This Act comes into force on the day it receives Royal Assent.

Short title

12. This Act may be cited as *The Forest Fires Prevention Amendment Act, 1974*.

An Act to amend
The Forest Fires Prevention Act

1st Reading

April 25th, 1974

2nd Reading

June 13th, 1974

3rd Reading

June 13th, 1974

THE HON. L. BERNIER
Minister of Natural Resources

1974

BILL 45 **Private Member's Bill**

4TH SESSION, 29TH LEGISLATURE, ONTARIO
23 ELIZABETH II, 1974

An Act to establish a Medical Data Bank

MR. NEWMAN
(Windsor-Walkerville)

TORONTO
PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO

Explanatory Note

The Bill establishes a medical data bank in which would be stored the medical histories of persons in Ontario. The data bank would be of great assistance to doctors and hospitals where a patient moves to another city, changes doctors or is involved in an accident. Participation in the use of the data bank would be on a voluntary basis only.

BILL 45 **1974**

An Act to establish a Medical Data Bank

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. In this Act, Interpretation

(*a*) "medical data bank" means the medical data bank operated and maintained under this Act;

(*b*) "Ministry" means the Ministry of Health;

(*c*) "public hospital" means a hospital approved as a public hospital under *The Public Hospitals Act;* R.S.O 1970, c. 378

(*d*) "regulations" means the regulations made under this Act.

2. The Ministry shall operate and maintain a medical data bank, in the form of a computer, in which shall be stored the information fed into it concerning medical histories. Medical data bank established

3. Every public hospital shall maintain an outlet of the medical data bank into which may be placed the medical histories of persons using the hospital in the form prescribed by the regulations. Data bank outlet in each hospital

4.—(1) A medical history of a person shall not be stored in the medical data bank without the written consent of the person whose medical history is to be stored. Consent required

(2) The medical history of a person shall not be removed from the medical data bank without the written consent of his legally qualified medical practitioner. Idem

5. Any person may apply to the Ministry directly to have his medical history stored in the medical data bank. Application to Ministry

Ministry must file medical history in data bank

6. Where a person applies to have his medical history stored in the medical data bank under section 4, the Ministry shall accept the information for storage where it is in the form prescribed by the regulations.

Offence

7. Every person who,

(*a*) knowingly, furnishes false information in any application under this Act or the regulations;

(*b*) fails to comply with any other requirement made under this Act; or

(*c*) contravenes any provision of this Act or the regulations,

is guilty of an offence and on summary conviction is liable to a fine of not more than $1,000 or to imprisonment for a term of not more than one year, or to both.

Regulations

8. The Lieutenant Governor in Council may make regulations,

(*a*) prescribing the type, form and style of information that may be stored in the medical data bank;

(*b*) requiring that persons use their social insurance numbers as identification when using the medical data bank; and

(*c*) requiring that information that is fed into the medical data bank be prepared by a legally qualified medical practitioner or under the supervision of a legally qualified medical practitioner at the written request of the individual concerned.

Commencement

9. This Act comes into force on the day it receives Royal Assent.

Short title

10. This Act may be cited as *The Medical Data Bank Act, 1974*.

An Act to establish a Medical Data Bank

1st Reading

April 29th, 1974

2nd Reading

3rd Reading

MR. NEWMAN
(Windsor-Walkerville)

(*Private Member's Bill*)

1974

BILL 46 **Private Member's Bill**

4TH SESSION, 29TH LEGISLATURE, ONTARIO
23 ELIZABETH II, 1974

An Act to amend The Crown Employees Collective Bargaining Act, 1972

MR. LAUGHREN

TORONTO
PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO

Explanatory Notes

Section 1. The amendment is complementary to the change in section 2 of the Bill.

Section 2. The amendment removes the section which outlines the exclusive functions of the employer.

Section 3. The amendment removes the prohibition against an employee striking.

BILL 46 1974

An Act to amend The Crown Employees Collective Bargaining Act, 1972

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 6 of *The Crown Employees Collective Bargaining Act, 1972*, being chapter 67, is repealed and the following substituted therefor: s. 6, re-enacted

6. Upon being granted representation rights, the employee organization is authorized to bargain with the employer on terms and conditions of employment. Bargaining authority

2. Subsection 1 of section 17 of the said Act is repealed. s. 17 (1), repealed

3. Section 25 of the said Act is repealed and the following substituted therefor: s. 25, re-enacted

25. The employer shall not cause a lock-out. Lock-out prohibited

4. This Act comes into force on the day it receives Royal Assent. Commencement

5. This Act may be cited as *The Crown Employees Collective Bargaining Amendment Act, 1974*. Short title

An Act to amend
The Crown Employees Collective
Bargaining Act, 1972

1st Reading

April 30th, 1974

2nd Reading

3rd Reading

MR. LAUGHREN

(*Private Member's Bill*)

1974

BILL 47 **Private Member's Bill**

4TH SESSION, 29TH LEGISLATURE, ONTARIO
23 ELIZABETH II, 1974

An Act to amend The Landlord and Tenant Act

MRS. CAMPBELL

TORONTO
PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO

Explanatory Note

The amendment provides for mandatory Landlord and Tenant Review Boards in municipalities with populations of over 50,000 persons.

These Boards would have the power to determine the amount of rents and to order tenants removed from premises for non-payment of rent or wilful damage to premises.

BILL 47 **1974**

An Act to amend The Landlord and Tenant Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 110 of *The Landlord and Tenant Act*, being chapter 236 of the Revised Statutes of Ontario, 1970, is repealed and the following substituted therefor: s. 110, re-enacted

110.—(1) In this section, Interpretation

(*a*) "Board" means a Landlord and Tenant Review Board established under this Act;

(*b*) "municipality" means a local municipality and includes a metropolitan municipality and a regional municipality but does not include an area municipality thereof.

(2) The council of every municipality, where the population of the municipality is greater than 50,000 persons, shall by by-law establish a Landlord and Tenant Review Board, subject to the approval of the Lieutenant Governor in Council. By-laws to establish Landlord and Tenant Review Board

(3) The council of every municipality referred to in subsection 2 shall appoint five members to the Board, one of whom shall be chairman and one of whom shall be vice-chairman, except that no elected official of the municipality may be a member of the Board. Composition of Board

(4) At least three members of a Board, one of whom shall be the chairman or vice-chairman, constitute a quorum. Quorum

(5) The chairman shall have general supervision and direction over the conduct of the affairs of a Board. Duties of chairman

(6) The objects of a Board are and it has the power, Objects and powers

(*a*) to advise landlords and tenants in tenancy matters;

(*b*) to receive complaints and seek to mediate disputes between landlords and tenants;

(*c*) to disseminate information for the purpose of educating and advising landlords and tenants concerning rental practices, rights and remedies;

(*d*) to receive and investigate complaints of conduct in contravention of legislation governing tenancies;

(*e*) to conduct hearings concerning rent increases, to allow the increase or order the landlord to decrease or freeze the rent;

(*f*) to conduct hearings concerning vandalism and damage to premises by tenants and to order a tenant to be removed from a premises where wilful damage has occurred;

(*g*) to conduct hearings concerning rent arrears by a tenant where the arrears are for two months or more, and to order a tenant to be removed from a premises where the arrears in rent are substantial.

Time and place of hearings

(7) Every Board appointed under subsection 2 shall meet at least twelve times a year at such places to be determined by the Board.

Application by tenant

(8) Where a tenant is in possession of residential premises and his continuing in possession is subject to the payment of an increased rent, the tenant may apply to a Board for a review of the amount of the rent.

Application by landlord

(9) A landlord may apply for a review and for an order to have a tenant evicted where the tenant is in arrears of rent for more than two months or where the tenant has inflicted wilful damage on the premises.

Parties

(10) The landlord, the tenant and any other person specified by the Board are parties to the hearing.

Notice of hearing

(11) The Board shall fix a date for the hearing and shall serve notice of the hearing on the parties at least ten days before the day fixed.

Application of 1971, c. 47

(12) Sections 6 to 23 of *The Statutory Powers Procedure Act, 1971* apply to a hearing under this section.

Rental and eviction orders

(13) A Board shall after a hearing determine,

(*a*) the amount of rent that is reasonable in all the circumstances and may order that the rental agreement be continued at the rental mentioned in the order; or

(*b*) whether or not a tenant should be removed from a premises because of non-payment of rent or wilful damage to the premises,

as the case may be.

Termination of tenancy while application pending

(14) A landlord shall not terminate a rental agreement, except for cause, while an application to a Board under this section is pending.

Termination of periodic tenancy after order

(15) In the case of a weekly or monthly tenancy, the Board may order that the landlord shall not terminate the tenancy, except for cause, for a period named in the order, not exceeding one year.

Commencement

2. This Act comes into force on the 1st day of May, 1974.

Short title

3. This Act may be cited as *The Landlord and Tenant Amendment Act, 1974*.

An Act to amend
The Landlord and Tenant Act

1st Reading

April 30th, 1974

2nd Reading

3rd Reading

MRS. CAMPBELL

(*Private Member's Bill*)

1974

BILL 48 **Private Member's Bill**

4TH SESSION, 29TH LEGISLATURE, ONTARIO
23 ELIZABETH II, 1974

An Act to establish the Ontario Waste Disposal and Reclamation Commission

MR. NEWMAN (Windsor-Walkerville)

TORONTO
PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO

Explanatory Note

The Bill establishes the Ontario Waste Disposal and Reclamation Commission.

BILL 48 **1974**

An Act to establish the Ontario Waste Disposal and Reclamation Commission

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. In this Act, Interpretation

(*a*) "Commission" means the Ontario Waste Disposal and Reclamation Commission;

(*b*) "Minister" means the Minister of the Environment.

2.—(1) A Commission to be known as the "Ontario Waste Disposal and Reclamation Commission" is hereby established. Commission established

(2) The Commission shall be composed of not fewer than seven members appointed by the Lieutenant Governor in Council. Composition

3. The Lieutenant Governor in Council may designate one of the members to be chairman of the Commission. Chairman

4. Five members of the Commission constitute a quorum. Quorum

5. The Lieutenant Governor in Council may fill any vacancy among the members of the Commission. Vacancies

6.—(1) The objects of the Commission are and it has power, Objects and powers

(*a*) to provide solid waste disposal and reclamation services throughout the province, including incineration and landfill;

(*b*) to develop procedures and establish plants for the reclamation and recycling of paper, metal, glass and other materials;

(*c*) to study methods of marketing reclaimed materials; and

(*d*) to provide waste collection services in areas where it would be uneconomical for local authorities to do so.

Further powers

(2) Subject to the approval of the Lieutenant Governor in Council, for the furtherance of its objects, the Commission may enter into agreements with universities, corporations or persons for the experimentation in methods of evaluating and reducing noise.

By-laws

7. The Commission may make such by-laws as are considered expedient for its constitution and the administration of its affairs, and may do such other things as are considered necessary or advisable to carry out its objects.

Annual report

8. The Commission shall make a report annually to the Minister who shall submit the report to the Lieutenant Governor in Council and shall then lay the report before the Assembly if it is in session or, if not, at the next ensuing session.

Commencement

9. This Act comes into force on the day it receives Royal Assent.

Short title

10. This Act may be cited as *The Ontario Waste Disposal and Reclamation Commission Act, 1974*.

An Act to establish the Ontario Waste Disposal and Reclamation Commission

---

1st Reading

May 2nd, 1974

2nd Reading

3rd Reading

MR. NEWMAN (Windsor-Walkerville)

(*Private Member's Bill*)

1974

BILL 49 **Private Member's Bill**

4TH SESSION, 29TH LEGISLATURE, ONTARIO
23 ELIZABETH II, 1974

An Act to amend The Municipal Act

MR. DEANS

TORONTO
PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO

Explanatory Note

Solicitors are added to the list of persons that may only be dismissed from office after a hearing.

BILL 49 **1974**

An Act to amend The Municipal Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Subsection 2 of section 238 of *The Municipal Act*, being chapter 284 of the Revised Statutes of Ontario, 1970, is repealed and the following substituted therefor: s. 238 (2), re-enacted

(2) No chief administrative officer, clerk, treasurer, solicitor or engineer shall be dismissed from office except after a hearing by the council, or a committee of the whole council, if requested by the officer concerned. Dismissal of officers

2. This Act comes into force on the day it receives Royal Assent. Commencement

3. This Act may be cited as *The Municipal Amendment Act, 1974*. Short title

An Act to amend
The Municipal Act

1st Reading

May 2nd, 1974

2nd Reading

3rd Reading

MR. DEANS

(*Private Member's Bill*)

1974

BILL 50 **Government Bill**

4TH SESSION, 29TH LEGISLATURE, ONTARIO
23 ELIZABETH II, 1974

An Act to amend The Property Tax Stabilization Act, 1973

THE HON. J. WHITE
Treasurer of Ontario and Minister of Economics
and Intergovernmental Affairs

TORONTO
PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO

Explanatory Notes

Section 1. The re-enacted section provides for increased municipal grants as follows:

1. The general support grant range of from 2 per cent to 6 per cent of the net levy is increased to one of from 3 per cent to 9 per cent; the minimum grant rate will apply when gross revenue fund expenditures increase by 14 per cent or more rather than 12 per cent.

2. The additional grant to northern Ontario municipalities is increased from 10 per cent of the net levy to 12 per cent.

3. The equalized per capita assessment of a municipality upon which qualification for a resource equalization grant is based is increased from $10,000 to $10,100; the proportion of the deficiency upon which the grant is based is increased from 50 per cent to 60 per cent.

BILL 50 **1974**

An Act to amend The Property Tax Stabilization Act, 1973

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 2 of *The Property Tax Stabilization Act, 1973*, being chapter 73, is repealed and the following substituted therefor: s. 2, re-enacted

2. The purpose of this Act is to, Purpose of Act

(*a*) provide for a general support grant to each upper tier municipality and to each lower tier municipality in an amount ranging from 3 per cent to 9 per cent of the net levy of the municipality, with the percentage applicable to each municipality being determined, in the manner prescribed in the regulations, on a sliding scale ranging from 3 per cent where the municipality's gross revenue fund expenditures increase by 14 per cent or more over such expenditures in the previous year to 9 per cent where such increase is 8 per cent or less; and

(*b*) provide an additional grant in the amount of 12 per cent of the net levy of each upper tier municipality and each lower tier municipality that is situate in the northern part of Ontario; and

(*c*) provide for a resource equalization grant to each lower tier municipality whose equalized assessment per capita is below $10,100 in an amount based, in the manner prescribed in the regulations, on the proportion that 60 per cent of such deficiency of equalized assessment per capita bears to $10,100 as applied to the net levy of the lower tier municipality.

s. 3, re-enacted

2. Section 3 of the said Act is repealed and the following substituted therefor:

General support grant to lower and upper tier municipalities

3.—(1) The Minister shall, out of the moneys appropriated therefor by the Legislature, make a general support grant in 1974 and in each year thereafter to each lower tier municipality and to each upper tier municipality in the amount and in the manner prescribed in the regulations.

Special support grant to municipalities in northern Ontario

(2) The Minister shall, out of the moneys appropriated therefor by the Legislature, make a special support grant in 1974 and in each year thereafter to each lower tier municipality that is situate in the northern part of Ontario and to each upper tier municipality that is situate in the northern part of Ontario, in the amount and in the manner prescribed in the regulations.

Resource equalization grant to lower tier municipalities

(3) The Minister shall, out of the moneys appropriated therefor by the Legislature, make a resource equalization grant in 1974 and in each year thereafter to each lower tier municipality in the amount and in the manner prescribed in the regulations.

s. 4, re-enacted

3. Section 4 of the said Act is repealed and the following substituted therefor:

Equalized assessment of lower tier municipality deemed increased

4.—(1) For the purposes of any general or special Act, the equalized assessment of a lower tier municipality shall be deemed for apportionment purposes, other than for school purposes or for apportionment between merged areas, to be increased by an amount that would have produced the amount of the resource equalization grant entitlement in the preceding year by the taxation of real property at the rate determined by dividing the total taxes levied for all purposes other than school purposes on commercial and industrial assessment, in the preceding year by the total equalized commercial and industrial assessment for the preceding year, times 1,000.

Exclusion of taxes added to collector's roll under R.S.O. 1970, c. 32, s. 43

(2) In determining the taxes levied on commercial and industrial assessment under subsection 1, there shall be excluded taxes on such assessment under section 43 of *The Assessment Act*.

Statement

(3) In each year, the clerk of every lower tier municipality that received a resource equalization grant in the preceding year shall transmit, on or before the 1st day of April, to each body, other than a school board, for which the lower tier municipality is required to levy,

SECTION 2. The section is re-enacted to clarify the authority of the Treasurer to make the three forms of grants to municipalities.

SECTION 3. The manner in which the deemed increase in assessment of a lower tier municipality that receives a resource equalization grant is calculated is made more explicit.

SECTION 4. The provisions of the section being repealed are now embodied in section 3 of the Bill.

SECTION 5. The method by which a lower tier municipality determines the allocation of its resource equalization grant is clarified.

SECTION 6. The re-enacted sections 9 and 10 provide for preliminary apportionment in 1974 prior to the determination of the deemed assessment increase and for adjustment after that figure becomes known. Special provision is made in the case of area municipalities situate in the four named regional municipalities that were not in existence in 1973.

a statement of the amount of the resource equalization grant in respect of the preceding year and the amount to be added to the equalized assessment of the municipality under subsection 1.

(4) In 1974, the statement referred to in subsection 3 shall be transmitted as soon as is practicable after the day on which this section comes into force. Idem

4. Section 5 of the said Act is repealed. s. 5. repealed

5. Section 6 of the said Act is repealed and the following substituted therefor: s. 6. re-enacted

6.—(1) The lower tier municipality shall, in each year, allocate a portion of the resource equalization grant entitlement in that year to each of the bodies, other than a school board, for which the lower tier municipality is required to levy. Allocation of resource equalization grant

(2) For the purposes of subsection 1, the portion shall be the ratio of taxes levied on commercial and industrial assessment in the preceding year for each such body to the total taxes levied on commercial and industrial assessment in the preceding year for all purposes, other than school purposes. Determination of portion allocated

(3) In determining the taxes levied on commercial and industrial assessment under subsection 2, there shall be excluded taxes levied on such assessment under section 43 of *The Assessment Act*. Exclusion of taxes added to collector's roll under R.S.O. 1970, c. 32, s. 43

6. Sections 9 and 10 of the said Act are repealed and the following substituted therefor: ss. 9, 10, re-enacted

9.—(1) Notwithstanding section 4, a preliminary apportionment may be made in 1974 and an adjustment to the preliminary apportionment shall be made when the statement under subsection 3 of section 4 is received. Preliminary apportionment

(2) In the case of the regional municipalities of Halton, Peel, Durham, Hamilton-Wentworth and Haldimand-Norfolk, a preliminary apportionment may be made in 1974 notwithstanding section 4 and an adjustment to that apportionment shall be made when the amount of the 1974 resource equalization grant entitlement for all area municipalities in the regional municipality is determined. Idem

10.—(1) In the case of the regional municipalities of Halton, Peel, Durham, Hamilton-Wentworth and Haldi- Equalized assessment of lower tier municipality deemed increased

mand-Norfolk and for the purposes of section 4, the equalized assessment of a lower tier municipality shall be deemed for apportionment purposes, other than for school purposes or for apportionment between merged areas, to be increased by an amount that would have produced the amount of the resource equalization grant entitlement in the current year by the taxation of real property at the mill rate determined by dividing the total taxes levied by the lower tier municipality in the current year for all purposes other than school purposes on commercial and industrial assessment of the current year by the total equalized commercial and industrial assessment for the current year, times 1,000.

Exclusion of taxes added to collector's roll under R.S.O. 1970, c. 32, s. 43

(2) In determining the taxes levied on commercial and industrial assessment under subsection 1, there shall be excluded taxes on such assessment levied under section 43 of *The Assessment Act*.

Commencement

7. This Act shall be deemed to have come into force on the 1st day of January, 1974.

Short title

8. This Act may be cited as *The Property Tax Stabilization Amendment Act, 1974*.

An Act to amend
The Property Tax Stabilization Act,
1973

1st Reading

May 2nd, 1974

2nd Reading

3rd Reading

THE HON. J. WHITE
Treasurer of Ontario and Minister of
Economics and Intergovernmental
Affairs

(*Government Bill*)

1974

BILL 50

4TH SESSION, 29TH LEGISLATURE, ONTARIO
23 ELIZABETH II, 1974

An Act to amend The Property Tax Stabilization Act, 1973

THE HON. J. WHITE
Treasurer of Ontario and Minister of Economics
and Intergovernmental Affairs

TORONTO
PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO

BILL 50 **1974**

An Act to amend The Property Tax Stabilization Act, 1973

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 2 of *The Property Tax Stabilization Act, 1973*, being chapter 73, is repealed and the following substituted therefor: s. 2, re-enacted

2. The purpose of this Act is to, Purpose of Act

(*a*) provide for a general support grant to each upper tier municipality and to each lower tier municipality in an amount ranging from 3 per cent to 9 per cent of the net levy of the municipality, with the percentage applicable to each municipality being determined, in the manner prescribed in the regulations, on a sliding scale ranging from 3 per cent where the municipality's gross revenue fund expenditures increase by 14 per cent or more over such expenditures in the previous year to 9 per cent where such increase is 8 per cent or less; and

(*b*) provide an additional grant in the amount of 12 per cent of the net levy of each upper tier municipality and each lower tier municipality that is situate in the northern part of Ontario; and

(*c*) provide for a resource equalization grant to each lower tier municipality whose equalized assessment per capita is below $10,100 in an amount based, in the manner prescribed in the regulations, on the proportion that 60 per cent of such deficiency of equalized assessment per capita bears to $10,100 as applied to the net levy of the lower tier municipality.

s. 3, re-enacted

2. Section 3 of the said Act is repealed and the following substituted therefor:

General support grant to lower and upper tier municipalities

3.—(1) The Minister shall, out of the moneys appropriated therefor by the Legislature, make a general support grant in 1974 and in each year thereafter to each lower tier municipality and to each upper tier municipality in the amount and in the manner prescribed in the regulations.

Special support grant to municipalities in northern Ontario

(2) The Minister shall, out of the moneys appropriated therefor by the Legislature, make a special support grant in 1974 and in each year thereafter to each lower tier municipality that is situate in the northern part of Ontario and to each upper tier municipality that is situate in the northern part of Ontario, in the amount and in the manner prescribed in the regulations.

Resource equalization grant to lower tier municipalities

(3) The Minister shall, out of the moneys appropriated therefor by the Legislature, make a resource equalization grant in 1974 and in each year thereafter to each lower tier municipality in the amount and in the manner prescribed in the regulations.

s. 4, re-enacted

3. Section 4 of the said Act is repealed and the following substituted therefor:

Equalized assessment of lower tier municipality deemed increased

4.—(1) For the purposes of any general or special Act, the equalized assessment of a lower tier municipality shall be deemed for apportionment purposes, other than for school purposes or for apportionment between merged areas, to be increased by an amount that would have produced the amount of the resource equalization grant entitlement in the preceding year by the taxation of real property at the rate determined by dividing the total taxes levied for all purposes other than school purposes on commercial and industrial assessment, in the preceding year by the total equalized commercial and industrial assessment for the preceding year, times 1,000.

Exclusion of taxes added to collector's roll under R.S.O. 1970, c. 32, s. 43

(2) In determining the taxes levied on commercial and industrial assessment under subsection 1, there shall be excluded taxes on such assessment under section 43 of *The Assessment Act*.

Statement

(3) In each year, the clerk of every lower tier municipality that received a resource equalization grant in the preceding year shall transmit, on or before the 1st day of April, to each body, other than a school board, for which the lower tier municipality is required to levy,

a statement of the amount of the resource equalization grant in respect of the preceding year and the amount to be added to the equalized assessment of the municipality under subsection 1.

(4) In 1974, the statement referred to in subsection 3 shall be transmitted as soon as is practicable after the day on which this section comes into force. Idem

4. Section 5 of the said Act is repealed. s. 5. repealed

5. Section 6 of the said Act is repealed and the following substituted therefor: s. 6. re-enacted

6.—(1) The lower tier municipality shall, in each year, allocate a portion of the resource equalization grant entitlement in that year to each of the bodies, other than a school board, for which the lower tier municipality is required to levy. Allocation of resource equalization grant

(2) For the purposes of subsection 1, the portion shall be the ratio of taxes levied on commercial and industrial assessment in the preceding year for each such body to the total taxes levied on commercial and industrial assessment in the preceding year for all purposes, other than school purposes. Determination of portion allocated

(3) In determining the taxes levied on commercial and industrial assessment under subsection 2, there shall be excluded taxes levied on such assessment under section 43 of *The Assessment Act*. Exclusion of taxes added to collector's roll under R.S.O. 1970, c. 32, s. 43

6. Sections 9 and 10 of the said Act are repealed and the following substituted therefor: ss. 9, 10. re-enacted

9.—(1) Notwithstanding section 4, a preliminary apportionment may be made in 1974 and an adjustment to the preliminary apportionment shall be made when the statement under subsection 3 of section 4 is received. Preliminary apportionment

(2) In the case of the regional municipalities of Halton, Peel, Durham, Hamilton-Wentworth and Haldimand-Norfolk, a preliminary apportionment may be made in 1974 notwithstanding section 4 and an adjustment to that apportionment shall be made when the amount of the 1974 resource equalization grant entitlement for all area municipalities in the regional municipality is determined. Idem

10.—(1) In the case of the regional municipalities of Halton, Peel, Durham, Hamilton-Wentworth and Haldi- Equalized assessment of lower tier municipality deemed increased

mand-Norfolk and for the purposes of section 4, the equalized assessment of a lower tier municipality shall be deemed for apportionment purposes, other than for school purposes or for apportionment between merged areas, to be increased by an amount that would have produced the amount of the resource equalization grant entitlement in the current year by the taxation of real property at the mill rate determined by dividing the total taxes levied by the lower tier municipality in the current year for all purposes other than school purposes on commercial and industrial assessment of the current year by the total equalized commercial and industrial assessment for the current year, times 1,000.

Exclusion of taxes added to collector's roll under R.S.O. 1970, c. 32, s. 43

(2) In determining the taxes levied on commercial and industrial assessment under subsection 1, there shall be excluded taxes on such assessment levied under section 43 of *The Assessment Act*.

Commencement

7. This Act shall be deemed to have come into force on the 1st day of January, 1974.

Short title

8. This Act may be cited as *The Property Tax Stabilization Amendment Act, 1974*.

BILL 50

An Act to amend
The Property Tax Stabilization Act,
1973

1st Reading

May 2nd, 1974

2nd Reading

June 10th, 1974

3rd Reading

June 10th, 1974

THE HON. J. WHITE
Treasurer of Ontario and Minister of
Economics and Intergovernmental
Affairs

1974

BILL 51 Government Bill

4TH SESSION, 29TH LEGISLATURE, ONTARIO
23 ELIZABETH II, 1974

An Act to amend The Regional Municipal Grants Act

THE HON. J. WHITE
Treasurer of Ontario and Minister of Economics
and Intergovernmental Affairs

TORONTO
PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO

Explanatory Notes

Section 1. The re-enacted section provides for the following increases in the per capita grants to regional municipalities:

1. The unconditional grant is increased from $8.00 to $9.00.

2. The grant for regional police services is increased from $5.00 to $7.00.

3. The grant in respect of area municipalities providing their own police force is increased from $3.00 to $5.00.

Section 2. Complementary to section 1 of the Bill in relation to the credit to be given by the regional municipality to its constituent area municipalities.

BILL 51 **1974**

An Act to amend The Regional Municipal Grants Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 2 of *The Regional Municipal Grants Act*, being chapter 405 of the Revised Statutes of Ontario, 1970, as re-enacted by the Statutes of Ontario, 1972, chapter 64, section 1 and amended by 1973, chapter 62, section 1, is repealed and the following substituted therefor: s. 2. re-enacted

2. In each year there shall be paid out of the moneys appropriated therefor by the Legislature to each regional municipality a payment or payments in accordance with the population of the area municipalities within the regional municipality under this Act as follows: Per capita grants

1. $9.00 per capita, including 20 cents per capita for increased planning responsibilities.

2. An amount per capita in accordance with the Schedule based on the density of each area municipality.

3. $7.00 per capita where a regional municipality is deemed to be a city for the purposes of *The Police Act*. R.S.O. 1970, c. 351

4. $5.00 per capita based on the population of each area municipality providing its own law enforcement by maintaining its own police force or being under contract for the policing of the municipality by the Ontario Provincial Police Force in accordance with *The Police Act*.

2. Section 3 of the said Act, as amended by the Statutes of Ontario, 1972, chapter 64, section 2, 1973, chapter 62, s. 3. re-enacted

section 2 and 1973, chapter 160, section 1, is repealed and the following substituted therefor:

Credit to area municipalities

3. In each year the regional municipality shall credit each area municipality with an amount calculated by multiplying the population of the area municipality as determined under section 4 by the sum of,

(*a*) $9.00;

(*b*) the per capita amount in relation to the area municipality in accordance with the Schedule based on the density of the area municipality;

R.S.O. 1970, c. 351

(*c*) $7.00 where a regional municipality is deemed to be a city for the purposes of *The Police Act*; and

(*d*) $5.00 in relation to each area municipality to which paragraph 4 of section 2 applies.

s. 4. re-enacted

3. Section 4 of the said Act, as amended by the Statutes of Ontario, 1973, chapter 160, section 2, is repealed and the following substituted therefor:

Determination of population

1973, c. 73

4. The population of the area municipalities for the purposes of this Act shall be determined in accordance with the regulations made under *The Property Tax Stabilization Act, 1973*.

Commencement

4. This Act shall be deemed to have come into force on the 1st day of January, 1974.

Short title

5. This Act may be cited as *The Regional Municipal Grants Amendment Act, 1974*.

SECTION 3. The population of the area municipalities will be determined in accordance with the regulations made under *The Property Tax Stabilization Act, 1973*, the effect is to take temporary residents into account where their numbers are significant.

An Act to amend
The Regional Municipal Grants Act

1st Reading

May 2nd, 1974

2nd Reading

3rd Reading

THE HON. J. WHITE
Treasurer of Ontario and Minister of
Economics and Intergovernmental
Affairs

(*Government Bill*)

1974

BILL 51

4TH SESSION, 29TH LEGISLATURE, ONTARIO
23 ELIZABETH II, 1974

An Act to amend The Regional Municipal Grants Act

THE HON. J. WHITE
Treasurer of Ontario and Minister of Economics
and Intergovernmental Affairs

TORONTO
PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO

BILL 51 **1974**

An Act to amend The Regional Municipal Grants Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 2 of *The Regional Municipal Grants Act*, being chapter 405 of the Revised Statutes of Ontario, 1970, as re-enacted by the Statutes of Ontario, 1972, chapter 64, section 1 and amended by 1973, chapter 62, section 1, is repealed and the following substituted therefor: s. 2, re-enacted

2. In each year there shall be paid out of the moneys appropriated therefor by the Legislature to each regional municipality a payment or payments in accordance with the population of the area municipalities within the regional municipality under this Act as follows: Per capita grants

1. $9.00 per capita, including 20 cents per capita for increased planning responsibilities.

2. An amount per capita in accordance with the Schedule based on the density of each area municipality.

3. $7.00 per capita where a regional municipality is deemed to be a city for the purposes of *The Police Act*. R.S.O. 1970, c. 351

4. $5.00 per capita based on the population of each area municipality providing its own law enforcement by maintaining its own police force or being under contract for the policing of the municipality by the Ontario Provincial Police Force in accordance with *The Police Act*.

2. Section 3 of the said Act, as amended by the Statutes of Ontario, 1972, chapter 64, section 2, 1973, chapter 62, s. 3, re-enacted

section 2 and 1973, chapter 160, section 1, is repealed and the following substituted therefor:

Credit to area municipalities

3. In each year the regional municipality shall credit each area municipality with an amount calculated by multiplying the population of the area municipality as determined under section 4 by the sum of,

(*a*) $9.00;

(*b*) the per capita amount in relation to the area municipality in accordance with the Schedule based on the density of the area municipality;

R.S.O. 1970, c. 351

(*c*) $7.00 where a regional municipality is deemed to be a city for the purposes of *The Police Act*; and

(*d*) $5.00 in relation to each area municipality to which paragraph 4 of section 2 applies.

s. 4, re-enacted

3. Section 4 of the said Act, as amended by the Statutes of Ontario, 1973, chapter 160, section 2, is repealed and the following substituted therefor:

Determination of population

1973, c. 73

4. The population of the area municipalities for the purposes of this Act shall be determined in accordance with the regulations made under *The Property Tax Stabilization Act, 1973*.

Commencement

4. This Act shall be deemed to have come into force on the 1st day of January, 1974.

Short title

5. This Act may be cited as *The Regional Municipal Grants Amendment Act, 1974*.

An Act to amend
The Regional Municipal Grants Act

1st Reading

May 2nd, 1974

2nd Reading

June 10th, 1974

3rd Reading

June 10th, 1974

THE HON. J. WHITE
Treasurer of Ontario and Minister of
Economics and Intergovernmental
Affairs

1974

BILL 52 **Government Bill**

4TH SESSION, 29TH LEGISLATURE, ONTARIO
23 ELIZABETH II, 1974

The Municipal Unconditional Grants Act, 1974

THE HON. J. WHITE
Treasurer of Ontario and Minister of Economics
and Intergovernmental Affairs

TORONTO
PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO

Explanatory Notes

The Bill replaces the present *Municipal Unconditional Grants Act*, and incorporates the following principal features:

1. The existing range of per capita grants of from $5.05 to $7.10 is increased to one of from $6.00 to $8.00; the existing population ranges of 5,000 and below are consolidated into one group.

2. The per capita grant to each municipality providing its own police force is increased from $3.00 to $5.00.

3. The population of municipalities for grant purposes will be determined in accordance with the regulations made under *The Property Tax Stabilization Act, 1973*, the result will be to take temporary residents into account where their numbers are significant.

4. The Treasurer is empowered to make grants or loans to a municipality whose property taxes are unduly increased by reason of circumstances of an unusual or exceptional nature.

BILL 52 **1974**

The Municipal Unconditional Grants Act, 1974

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) In this section, Interpretation

(*a*) "municipality" means a city, town, village or township but does not include a city, town, village or township situate within a metropolitan or regional municipality;

(*b*) "population" means the population of a municipality determined in accordance with the regulations made under *The Property Tax Stabilization Act, 1973*. 1973, c. 73

(2) In each year payments shall be made to each municipality in accordance with the population of that municipality and the Schedule to this Act. Payments to municipalities

(3) In each year payments of $5.00 per capita shall be made to each municipality providing its own law enforcement by maintaining its own police force, or being under contract for the policing of the municipality by the Ontario Provincial Police Force in accordance with *The Police Act*. Idem R.S.O. 1970, c. 351

2. The payments made to municipalities under subsections 2 and 3 of section 1 shall be used to reduce the amount of taxes levied on residential and farm property. Utilization of payments

3.—(1) In this section, Interpretation

(*a*) "Minister" means the Treasurer of Ontario and Minister of Economics and Intergovernmental Affairs;

(*b*) "municipality" means a city, town, village, township, county or a district, metropolitan or regional municipality.

Minister may make grants or loans

(2) Where the Minister is satisfied that property taxes in a municipality are unduly increased by reason of a substantial loss of revenue that had previously been available to a municipality as a result of a change in legislation or an unforeseen commitment imposed on a municipality or as a result of circumstances beyond the control of the municipal council and of an unusual or exceptional nature, the Minister may, by order, make a grant or a loan to such municipality under such terms and conditions as the Minister considers necessary in the circumstances.

Moneys

4. The moneys required for the purposes of this Act shall be paid out of the moneys appropriated therefor by the Legislature.

Repeals

5. The following are repealed:

1. *The Municipal Unconditional Grants Act*, being chapter 293 of the Revised Statutes of Ontario, 1970.

2. *The Municipal Unconditional Grants Amendment Act, 1972*, being chapter 63.

3. *The Municipal Unconditional Grants Amendment Act, 1972 (No. 2)*, being chapter 165.

4. *The Municipal Unconditional Grants Amendment Act, 1973*, being chapter 63.

5. *The Municipal Unconditional Grants Amendment Act, 1973 (No. 2)*, being chapter 170.

Commencement

6. This Act shall be deemed to have come into force on the 1st day of January, 1974.

Short title

7. This Act may be cited as *The Municipal Unconditional Grants Act, 1974*.

SCHEDULE

The following payments are made to municipalities in accordance with subsection 2 of section 1:

1. Having a population of more than 200,000, $1,499,000 plus $8.00 per capita for the population exceeding 200,000.

2. Having a population of more than 100,000 but not more than 200,000, $719,000 plus $7.80 per capita for the population exceeding 100,000.

3. Having a population of more than 75,000 but not more than 100,000, $529,000 plus $7.60 per capita for the population exceeding 75,000.

4. Having a population of more than 50,000 but not more than 75,000, $344,000 plus $7.40 per capita for the population exceeding 50,000.

5. Having a population of more than 25,000 but not more than 50,000, $164,000 plus $7.20 per capita for the population exceeding 25,000.

6. Having a population of more than 20,000 but not more than 25,000, $129,000 plus $7.00 per capita for the population exceeding 20,000.

7. Having a population of more than 15,000 but not more than 20,000, $95,000 plus $6.80 per capita for the population exceeding 15,000.

8. Having a population of more than 10,000 but not more than 15,000, $62,000 plus $6.60 per capita for the population exceeding 10,000.

9. Having a population of more than 5,000 but not more than 10,000, $30,000 plus $6.40 per capita for the population exceeding 5,000.

10. Having a population of not more than 5,000, $6.00 per capita.

The Municipal Unconditional Grants Act, 1974

1st Reading

May 2nd, 1974

2nd Reading

3rd Reading

THE HON. J. WHITE
Treasurer of Ontario and Minister of Economics and Intergovernmental Affairs

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(*Government Bill*)

1974

BILL 52

4TH SESSION, 29TH LEGISLATURE, ONTARIO
23 ELIZABETH II, 1974

The Municipal Unconditional Grants Act, 1974

THE HON. J. WHITE
Treasurer of Ontario and Minister of Economics
and Intergovernmental Affairs

TORONTO
PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO

BILL 52 **1974**

The Municipal Unconditional Grants Act, 1974

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) In this section, Interpretation

(*a*) "municipality" means a city, town, village or township but does not include a city, town, village or township situate within a metropolitan or regional municipality;

(*b*) "population" means the population of a municipality determined in accordance with the regulations made under *The Property Tax Stabilization Act, 1973*. 1973, c. 73

(2) In each year payments shall be made to each municipality in accordance with the population of that municipality and the Schedule to this Act. Payments to municipalities

(3) In each year payments of $5.00 per capita shall be made to each municipality providing its own law enforcement by maintaining its own police force, or being under contract for the policing of the municipality by the Ontario Provincial Police Force in accordance with *The Police Act*. Idem R.S.O. 1970, c. 351

2. The payments made to municipalities under subsections 2 and 3 of section 1 shall be used to reduce the amount of taxes levied on residential and farm property. Utilization of payments

3.—(1) In this section, Interpretation

(*a*) "Minister" means the Treasurer of Ontario and Minister of Economics and Intergovernmental Affairs;

(*b*) "municipality" means a city, town, village, township, county or a district, metropolitan or regional municipality.

Minister may make grants or loans

(2) Where the Minister is satisfied that property taxes in a municipality are unduly increased by reason of a substantial loss of revenue that had previously been available to a municipality as a result of a change in legislation or an unforeseen commitment imposed on a municipality or as a result of circumstances beyond the control of the municipal council and of an unusual or exceptional nature, the Minister may, by order, make a grant or a loan to such municipality under such terms and conditions as the Minister considers necessary in the circumstances.

Moneys

4. The moneys required for the purposes of this Act shall be paid out of the moneys appropriated therefor by the Legislature.

Repeals

5. The following are repealed:

1. *The Municipal Unconditional Grants Act*, being chapter 293 of the Revised Statutes of Ontario, 1970.

2. *The Municipal Unconditional Grants Amendment Act, 1972*, being chapter 63.

3. *The Municipal Unconditional Grants Amendment Act, 1972 (No. 2)*, being chapter 165.

4. *The Municipal Unconditional Grants Amendment Act, 1973*, being chapter 63.

5. *The Municipal Unconditional Grants Amendment Act, 1973 (No. 2)*, being chapter 170.

Commencement

6. This Act shall be deemed to have come into force on the 1st day of January, 1974.

Short title

7. This Act may be cited as *The Municipal Unconditional Grants Act, 1974*.

SCHEDULE

The following payments are made to municipalities in accordance with subsection 2 of section 1

1. Having a population of more than 200,000, $1,499,000 plus $8.00 per capita for the population exceeding 200,000.

2. Having a population of more than 100,000 but not more than 200,000, $719,000 plus $7.80 per capita for the population exceeding 100,000.

3. Having a population of more than 75,000 but not more than 100,000, $529,000 plus $7.60 per capita for the population exceeding 75,000.

4. Having a population of more than 50,000 but not more than 75,000, $344,000 plus $7.40 per capita for the population exceeding 50,000.

5. Having a population of more than 25,000 but not more than 50,000, $164,000 plus $7.20 per capita for the population exceeding 25,000.

6. Having a population of more than 20,000 but not more than 25,000, $129,000 plus $7.00 per capita for the population exceeding 20,000.

7. Having a population of more than 15,000 but not more than 20,000, $95,000 plus $6.80 per capita for the population exceeding 15,000.

8. Having a population of more than 10,000 but not more than 15,000, $62,000 plus $6.60 per capita for the population exceeding 10,000.

9. Having a population of more than 5,000 but not more than 10,000, $30,000 plus $6.40 per capita for the population exceeding 5,000.

10. Having a population of not more than 5,000, $6.00 per capita.

The Municipal Unconditional Grants Act, 1974

1st Reading

May 2nd, 1974

2nd Reading

June 10th, 1974

3rd Reading

June 10th, 1974

THE HON. J. WHITE
Treasurer of Ontario and Minister of Economics and Intergovernmental Affairs

1974

BILL 53 **Government Bill**

4TH SESSION, 29TH LEGISLATURE, ONTARIO
23 ELIZABETH II, 1974

An Act to amend The Financial Administration Act

THE HON. J. WHITE
Treasurer of Ontario and Minister of Economics
and Intergovernmental Affairs

TORONTO
PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO

Explanatory Note

The amendment deletes an obsolete reference.

BILL 53 **1974**

An Act to amend The Financial Administration Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Subsection 2 of section 54 of *The Financial Administration Act*, being chapter 166 of the Revised Statutes of Ontario, 1970, is amended by striking out "authorize the Comptroller of Accounts" in the third and fourth lines and by striking out "to" in the fifth line and where it occurs in the first instance in the ninth line. s. 54 (2), amended

2. This Act comes into force on the day it receives Royal Assent. Commencement

3. This Act may be cited as *The Financial Administration Amendment Act, 1974*. Short title

An Act to amend
The Financial Administration Act

1st Reading

May 2nd, 1974

2nd Reading

3rd Reading

THE HON. J. WHITE
Treasurer of Ontario and Minister of
Economics and Intergovernmental
Affairs

(*Government Bill*)

1974

BILL 53

4TH SESSION, 29TH LEGISLATURE, ONTARIO
23 ELIZABETH II, 1974

An Act to amend The Financial Administration Act

THE HON. J. WHITE
Treasurer of Ontario and Minister of Economics
and Intergovernmental Affairs

TORONTO
PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO

BILL 53 **1974**

An Act to amend The Financial Administration Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Subsection 2 of section 54 of *The Financial Administration Act*, being chapter 166 of the Revised Statutes of Ontario, 1970, is amended by striking out "authorize the Comptroller of Accounts" in the third and fourth lines and by striking out "to" in the fifth line and where it occurs in the first instance in the ninth line. s. 54 (2), amended

2. This Act comes into force on the day it receives Royal Assent. Commencement

3. This Act may be cited as *The Financial Administration Amendment Act, 1974*. Short title

An Act to amend
The Financial Administration Act

1st Reading

May 2nd, 1974

2nd Reading

May 7th, 1974

3rd Reading

May 7th, 1974

THE HON. J. WHITE
Treasurer of Ontario and Minister of
Economics and Intergovernmental
Affairs

1974

BILL 54 **Government Bill**

4TH SESSION, 29TH LEGISLATURE, ONTARIO
23 ELIZABETH II, 1974

An Act to amend The Land Transfer Tax Act, 1974

THE HON. A. K. MEEN
Minister of Revenue

TORONTO
PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO

Explanatory Note

Section 17 of *The Land Transfer Tax Act, 1974* provided that where the Minister was satisfied that a conveyance being tendered for registration was the result of an agreement executed and reduced to writing before April 10, 1974, the registration could take place on payment of the tax provided for under the now-repealed *Land Transfer Tax Act* and amendments thereto.

In certain cases, however, section 17 of *The Land Transfer Tax Act, 1974* required that the agreement resulting in a conveyance must be filed with the Minister before May 16, 1974. The amendment proposed in this Bill will remove the requirement for filing agreements by a particular date, but will leave in force the requirement that the Minister be satisfied that the agreement was reduced to writing and executed before April 10, 1974.

In addition, the amendment will provide that the consideration provided for in the agreement must be fixed before April 10, 1974, or determinable only by reference to a period prior to that date.

BILL 54 **1974**

An Act to amend The Land Transfer Tax Act, 1974

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 17 of *The Land Transfer Tax Act, 1974*, being chapter 8, is repealed and the following substituted therefor: s. 17, re-enacted

17. Where it is established to the satisfaction of the Minister that, prior to the 10th day of April, 1974, there existed, When tax under s. 2 (2) not to apply

(*a*) a written agreement conveying, or providing for the conveyance of, land either at a definite price or consideration the amount or value of which is set out in the agreement or at a price or consideration the amount or value of which is determinable under the agreement by reference only to a valuation as of a date not later than the 9th day of April, 1974; or

(*b*) a conveyance that was fully executed and was irrevocably and unconditionally delivered to the transferee or to some person on behalf of the transferee,

the person tendering for registration after the 9th day of April, 1974 a conveyance that is, or is provided for in, an agreement described in clause *a*, or that is a conveyance described in clause *b*, is, notwithstanding that such conveyance is to or in trust for a non-resident person, liable to pay tax under this Act only at the rates provided for in subsection 1 of section 2.

2. This Act shall be deemed to have come into force on the 10th day of April, 1974. Commencement

3. This Act may be cited as *The Land Transfer Tax Amendment Act, 1974*. Short title

An Act to amend
The Land Transfer Tax Act, 1974

1st Reading

May 6th, 1974

2nd Reading

3rd Reading

THE HON. A. K. MEEN
Minister of Revenue

(*Government Bill*)

1974

BILL 54

4TH SESSION, 29TH LEGISLATURE, ONTARIO
23 ELIZABETH II, 1974

An Act to amend The Land Transfer Tax Act, 1974

THE HON. A. K. MEEN
Minister of Revenue

TORONTO
PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO

BILL 54 **1974**

An Act to amend The Land Transfer Tax Act, 1974

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 17 of *The Land Transfer Tax Act, 1974*, being chapter 8, is repealed and the following substituted therefor: s. 17, re-enacted

17. Where it is established to the satisfaction of the Minister that, prior to the 10th day of April, 1974, there existed, When tax under s. 2 (2) not to apply

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2. This Act shall be deemed to have come into force on the 10th day of April, 1974. Commencement

3. This Act may be cited as *The Land Transfer Tax Amendment Act, 1974*. Short title

An Act to amend
The Land Transfer Tax Act, 1974

1st Reading

May 6th, 1974

2nd Reading

May 9th, 1974

3rd Reading

May 9th, 1974

THE HON. A. K. MEEN
Minister of Revenue

BILL 55 **Government Bill**

4TH SESSION, 29TH LEGISLATURE, ONTARIO
23 ELIZABETH II, 1974

An Act to prohibit unfair Practices in Sales to Consumers

THE HON. J. T. CLEMENT
Minister of Consumer and Commercial Relations

TORONTO
PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO

Explanatory Note

The purpose of the Bill is to prohibit and create sanctions against a range of undesirable practices and techniques in consumer sales. The Bill is aimed at practices as applied to any product or service as supplementary or alternative to regulating each industry.

BILL 55 **1974**

An Act to prohibit unfair Practices in Sales to Consumers

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. In this Act, Interpretation

(*a*) "business premises" does not include a dwelling;

(*b*) "consumer" means a person other than a corporation but does not include a person, partnership or association of individuals acting in the course of carrying on business;

(*c*) "consumer representation" means a representation, statement, offer, request or proposal,

(i) made respecting or with a view to the supplying of goods or services, or both, to a consumer, or

(ii) made for the purpose of or with a view to receiving consideration for goods or services, or both, supplied or purporting to have been supplied to a consumer;

(*d*) "Director" means the Director under *The Ministry of Consumer and Commercial Relations Act*; R.S.O. 1970, c. 113

(*e*) "dwelling" means a premises or any part thereof occupied as living accommodation;

(*f*) "goods" means personal property or any right or interest therein, including property that becomes a fixture but not including securities as defined in *The Securities Act*; R.S.O. 1970, c. 426

(*g*) "Minister" means the Minister of Consumer and Commercial Relations;

(*h*) "regulations" means the regulations made under this Act;

(*i*) "supplier" means a person who has an interest in the proceeds of a transaction that results or may result from a consumer representation and includes a person who makes a consumer representation;

R.S.O. 1970, c. 113

(*j*) "Tribunal" means The Commercial Registration Appeal Tribunal under *The Ministry of Consumer and Commercial Relations Act*.

Unfair practices

2. For the purposes of this Act, the following shall be deemed to be unfair practices,

(*a*) a false, misleading or deceptive consumer representation including, but without limiting the generality of the foregoing, .

(i) a representation that the goods or services have sponsorship, approval, performance characteristics, accessories, uses, ingredients, benefits or quantities they do not have,

(ii) a representation that the supplier has sponsorship, approval, status, affiliation or connection he does not have,

(iii) a representation that the goods are of a particular standard, quality, grade, style or model, if they are not,

(iv) a representation that the goods are new, or unused, if they are not or are reconditioned or reclaimed,

(v) a representation that the goods have been used to an extent that is materially different from the fact,

(vi) a representation that the goods or services are available for a reason that does not exist,

(vii) a representation that the goods or services have been supplied in accordance with a previous representation,

(viii) a representation that the goods or services or any part thereof are available to the consumer when the person making the representation knows or ought to know they will not be supplied,

(ix) a representation that a service, part, replacement or repair is needed, if it is not,

(x) a representation that a specific price advantage exists, if it does not,

(xi) a representation that misrepresents the authority of a supplier, salesman, representative, employee or agent to negotiate the final terms of the proposed transaction,

(xii) a representation that the proposed transaction involves or does not involve rights, remedies or obligations if the indication is false or misleading,

(xiii) a representation using exaggeration, innuendo or ambiguity as to a material fact or failing to state a material fact if such use or failure deceives or tends to deceive,

(xiv) a representation that misrepresents the purpose or intent of any solicitation of or any communication with a consumer by a supplier;

(*b*) the making of a consumer representation when the supplier knows or ought to know,

(i) that the consumer is not reasonably able to protect his interests because of his physical infirmity, ignorance, illiteracy, inability to understand the language of an agreement or similar factors,

(ii) that the price grossly exceeds the price at which similar property or services are readily available to like consumers, ,

(iii) that the consumer is unable to receive a substantial benefit from the subject-matter of the consumer representation,

(iv) that there is no reasonable probability of payment of the obligation in full by the consumer,

(v) that the proposed transaction is excessively one-sided in favour of someone other than the consumer,

(vi) that the terms or conditions of the proposed transaction are so adverse to the consumer as to be inequitable,

(vii) that he is making a misleading statement of opinion on which the consumer is likely to rely to his detriment,

(viii) that he is subjecting the consumer to undue pressure to enter into the transaction;

(*c*) such other practices as are prescribed by the regulations made in accordance with section 17.

Unfair practices prohibited

3.—(1) No person shall engage in an unfair practice.

One act deemed practice

(2) A person who performs one act referred to in section 2 shall be deemed to be engaging in an unfair practice.

Civil effect of unfair practice

4.—(1) Any agreement, express or implied, entered into by a consumer after a consumer representation that includes an unfair practice is voidable by the consumer, and each supplier is liable and jointly and severally liable with each other supplier to the consumer for any moneys paid under the agreement and for any damages incurred by the consumer as a result of the unfair practice.

Exemplary damages

(2) In an action for the recovery of damages under subsection 1, the court may award exemplary or punitive damages.

Limitation of liability of assignees

(3) The liability of an assignee of an agreement or right to payment thereunder that is avoided under subsection 1 is limited to the amount paid to the assignee under the agreement.

Evidence

(4) In the trial of an issue under subsection 1, oral evidence respecting an unfair practice is admissible notwithstanding that there is a written agreement and the evidence pertains to a representation of a term, condition or undertaking that is or is not provided for in the agreement.

Avoidance

(5) Subject to subsection 1, an agreement may be avoided by the giving of notice by the consumer to each other party to the agreement,

(*a*) in the case of an unfair practice referred to in clause *a* or *c* of section 2, within three months after the consumer became aware of the unfair practice;

(*b*) in the case of an unfair practice referred to in clause *b* of section 2, within six months after the agreement is entered into.

5. The Director shall, Duties of Director

(*a*) perform such duties and exercise such powers as are given to or conferred upon the Director under this or any other Act;

(*b*) receive and act on or mediate complaints respecting unfair practices;

(*c*) maintain available for public inspection a record of,

(i) assurances of voluntary compliance entered into under this Act,

(ii) orders to cease engaging in unfair practices issued under this Act.

6.—(1) Where, in the opinion of the Director any person is engaging in an unfair practice, the Director may order such person to comply with section 3 in respect of the unfair practices specified in the order. Order to cease unfair practice

(2) Where the Director proposes to make an order under subsection 1, he shall serve notice of his proposal on each person to be named in the order together with written reasons therefor. Notice of proposal

(3) A notice under subsection 1 shall inform each person to be named in the order that he is entitled to a hearing by the Tribunal if he mails or delivers within fifteen days after the notice under subsection 2 is served on him notice in writing requiring a hearing to the Director and the Tribunal and he may so require such a hearing. Request for hearing

(4) Where a person upon whom a notice is served under subsection 2 does not require a hearing by the Tribunal in accordance with subsection 3, the Director may carry out the proposal stated in the notice. Failure to request hearing

(5) Where a person requires a hearing by the Tribunal in accordance with subsection 3, the Tribunal shall appoint Hearing

a time for and hold the hearing and, on the application of the Director at the hearing, may by order direct the Director to carry out his proposal or to refrain from carrying out his proposal and to take such action as the Tribunal considers the Director ought to take in accordance with this Act and the regulations and for such purposes the Tribunal may substitute its opinion for that of the Director.

Conditions

(6) The Tribunal may attach such terms and conditions to its order as it considers proper to give effect to the purposes of this Act.

Parties

(7) The Director and the person who has required the hearing and such other persons having a direct and immediate interest in the proposal as the Tribunal may specify, are parties to proceedings before the Tribunal under this section.

Order for immediate compliance

7.—(1) Notwithstanding section 6, the Director may make an order under subsection 1 of section 6 to take effect immediately where, in his opinion, to do so is necessary for the protection of the public and, subject to subsection 3, the order takes effect immediately.

Notice of order

(2) Where the Director makes an order under subsection 1, he shall serve each person named in the order with a copy of the order together with written reasons therefor and a notice containing the information required to be in a notice referred to in subsections 2 and 3 of section 6.

Hearing

(3) Where a person named in the order requires a hearing by the Tribunal in accordance with the notice under subsection 2, the Tribunal shall appoint a time for and hold the hearing and may confirm or set aside the order or exercise such other powers as may be exercised in a proceeding under section 6.

Parties

(4) The Director and the person who has required the hearing and such other persons having a direct interest in the order as the Tribunal may specify are parties to proceedings before the Tribunal under this section.

Stay
R.S.O. 1970, c. 113

8. Notwithstanding that, under section 9*b* of *The Ministry of Consumer and Commercial Relations Act*, an appeal is taken from an order of the Tribunal made under section 6 or 7, the order takes effect immediately but the Tribunal may grant a stay until the disposition of the appeal.

Assurance of voluntary compliance

9.—(1) Any person against whom the Director proposes to make an order to comply with section 3 may enter into

a written assurance of voluntary compliance in the prescribed form undertaking to not engage in the specified unfair practices after the date thereof.

(2) Where an assurance of voluntary compliance is accepted by the Director, the assurance has and shall be given for all purposes of this Act the force and effect of an order made by the Director. Assurance deemed order

(3) An assurance of voluntary compliance may include such undertakings as are acceptable to the Director and the Director may receive a bond and collateral therefor as security for the reimbursement of consumers and reimbursement of the Treasurer of Ontario for investigation and other costs in such amount as is satisfactory to the Director. Undertakings

10. The Minister may by order appoint a person to make an investigation into any matter to which this Act applies as may be specified in the Minister's order and the person appointed shall report the result of his investigation to the Minister and, for the purposes of the investigation, the person making it has the powers of a commission under Part II of *The Public Inquiries Act, 1971*, which Part applies to such investigation as if it were an inquiry under that Act. Investigations by order of Minister 1971, c. 49

11.—(1) Where, upon a statement made under oath, the Director believes on reasonable and probable grounds that any person is contravening or is about to contravene any of the provisions of this Act or regulations or an order or assurance of voluntary compliance made or given pursuant to this Act, the Director may by order appoint one or more persons to make an investigation as to whether such a contravention of the Act, regulation, order or assurance of voluntary compliance has occurred and the person appointed shall report the result of his investigation to the Director. Investigation by Director

(2) For purposes relevant to the subject-matter of an investigation under this section, the person appointed to make the investigation may inquire into and examine the affairs of the person in respect of whom the investigation is being made and may, Powers of investigator

(*a*) upon production of his appointment, enter at any reasonable time the business premises of such person and examine books, papers, documents and things relevant to the subject-matter of the investigation; and

(*b*) inquire into the transactions, business affairs, management and practices that are relevant to the subject-matter of the investigation,

and for the purposes of the inquiry, the person making the investigation has the powers of a commission under Part II of *The Public Inquiries Act, 1971*, which Part applies to such inquiry as if it were an inquiry under that Act.

1971, c. 49

Obstruction of investigator

(3) No person shall obstruct a person appointed to make an investigation under this section or withhold from him or conceal or destroy any books, papers, documents or things relevant to the subject-matter of the investigation.

Search warrant

(4) Where a provincial judge is satisfied, upon an *ex parte* application by the person making an investigation under this section, that the investigation has been ordered and that such person has been appointed to make it and that there is reasonable ground for believing there are in any building, dwelling, receptacle or place any books, papers, documents or things relating to the person whose affairs are being investigated and to the subject-matter of the investigation, the provincial judge may, whether or not an inspection has been made or attempted under clause *a* of subsection 2, issue an order authorizing the person making the investigation, together with such police officer or officers as he calls upon to assist him, to enter and search, if necessary by force, such building, dwelling, receptacle or place for such books, papers, documents or things and to examine them, but every such entry and search shall be made between sunrise and sunset unless the provincial judge, by the order, authorizes the person making the investigation to make the search at night.

Removal of books, etc.

(5) Any person making an investigation under this section may, upon giving a receipt therefor, remove any books, papers, documents or things examined under clause *a* of subsection 2 or subsection 4 relating to the person whose affairs are being investigated and to the subject-matter of the investigation for the purpose of making copies of such books, papers or documents, but such copying shall be carried out with reasonable dispatch and the books, papers or documents in question shall be promptly thereafter returned to the person whose affairs are being investigated.

Admissibility of copies

(6) Any copy made as provided in subsection 5 and certified to be a true copy by the person making the investigation is admissible in evidence in any action, proceeding or prosecution as *prima facie* proof of the original book, paper or document and its contents.

(7) The Minister or Director may appoint any expert to examine books, papers, documents or things examined under clause *a* of subsection 2 or under subsection 4. Appointment of experts

(8) Where, upon the report of an investigation made under subsection 1, it appears to the Director that a person may have contravened any of the provisions of this Act or the regulations, the Director shall send a full and complete report of the investigation, including the report made to him, any transcript of evidence and any material in the possession of the Director relating thereto, to the Minister. Report

12.—(1) Where, Order to refrain from dealing with assets

(*a*) an investigation of any person has been ordered under section 11; or

(*b*) an order has been issued against a person under section 6 or 7; or

(*c*) an assurance of voluntary compliance has been given under section 9,

the Director, if he believes it advisable for the protection of consumers of the person referred to in clause *a*, *b* or *c* may, in writing or by telegram, direct any person having on deposit or under control or for safekeeping any assets or trust funds of the person referred to in clause *a*, *b* or *c* to hold such assets or trust funds or direct the person referred to in clause *a*, *b* or *c* to refrain from withdrawing any such assets or trust funds from any person having any of them on deposit or under control or for safekeeping or to hold such assets or any trust funds of clients, customers or others in his possession or control in trust for any interim receiver, custodian, trustee, receiver or liquidator appointed under the *Bankruptcy Act* (Canada), *The Judicature Act*, *The Corporations Act*, *The Business Corporations Act* or the *Winding-up Act* (Canada), or until the Director revokes or the Tribunal cancels such direction or consents to the release of any particular assets or trust funds from the direction but, in the case of a bank, loan or trust company, the direction only applies to the office, branches or agencies thereof named in the direction. R.S.C. 1970, cc. B-4, W-11 R.S.O. 1970, cc. 228, 89, 53

(2) Subsection 1 does not apply where the person referred to in clause *a*, *b* or *c* of subsection 1 files with the Director, Bond in lieu

(*a*) a personal bond accompanied by collateral security;

(*b*) a bond of a guarantee company approved under *The Guarantee Companies Securities Act*; or R.S.O. 1970, c. 196

(*c*) a bond of a guarantor, other than a guarantee company, accompanied by collateral security,

in such form, terms and amount as the Director determines.

Application for direction

(3) Any person in receipt of a direction given under subsection 1, if in doubt as to the application of the direction to any assets or trust funds, or in case of a claim being made thereto by a person not named in the direction, may apply to a judge or local judge of the Supreme Court who may direct the disposition of such assets or trust funds and may make such order as to costs as seems just.

Application for cancellation of direction or registration

(4) Any person referred to in clause *a*, *b* or *c* of subsection 1 in respect of whom a direction has been given by the Director under subsection 1 may, at any time, apply to the court for cancellation in whole or in part of the direction and the court shall dispose of the application after a hearing and may, if it finds that such a direction is not required in whole or in part for the protection of consumers of the applicant or that the interests of other persons are unduly prejudiced thereby, cancel the direction in whole or in part, and the applicant, the Director and such other persons as the court may specify are parties to the proceedings before the court.

Service of notice

13. Any notice or document required by this Act to be served or given may be served or given personally or by prepaid first class mail addressed to the person to whom notice is to be given at his last known address and, where notice is served or given by mail, the service shall be deemed to have been made on the fifth day after the day of mailing unless the person to whom notice is given establishes that he, acting in good faith, through absence, accident, illness or other cause beyond his control, did not receive the notice, or did not receive the notice until a later date.

Evidence of Director

14.—(1) No person employed in the administration of this Act, including a person making an investigation under section 10 or 11 shall be required to give testimony in any civil suit or proceeding with regard to information obtained by him in the course of his duties, employment, inquiry, inspection or investigation except in a proceeding by the Director under this Act or the regulations.

Exception

(2) Where the Director is apprised of an unfair practice, he may inform the consumer involved of the unfair practice and any information relevant to the consumer's rights under this Act.

15. A copy of an order or assurance of voluntary compliance purporting to be certified by the Director is, without proof of the office or signature of the Director, receivable in evidence as *prima facie* proof of the facts stated therein for all purposes in any action, proceeding or prosecution. Certificate of Director as evidence

16. Where a person who is licensed or registered under any other Act to carry on an activity and in the course thereof contravenes section 3, such contravention shall be deemed to be grounds for the revocation of his licence or registration. Revocation of licence or registration

17.—(1) The Lieutenant Governor in Council may make regulations, Regulations

(*a*) requiring persons engaging in a business that includes consumer representations or any class of them to make such returns and furnish such information to the Director as is prescribed;

(*b*) requiring any information required or permitted to be furnished to the Director or contained in any form or return to be verified by affidavit;

(*c*) subject to subsection 2, adding to the list in section 2 of representations and practices that shall be deemed to be unfair practices;

(*d*) exempting any class of person or type of consumer from this Act or the regulations or any provision thereof;

(*e*) requiring the payment of fees in respect of the inspection of public records maintained under section 5;

(*f*) prescribing forms for the purposes of this Act and providing for their use;

(*g*) prescribing the form, terms and collateral security for bonds given with assurances of voluntary compliance and providing for the forfeiture of bonds and the disposition of the proceeds.

(2) A regulation under clause *c* of subsection 1 may be made when the Assembly is recessed or not in session and expires with the prorogation of the resumed session or of the next ensuing session, as the case may be. Regulation re additional unfair practices

Offences

18.—(1) Every person who, knowingly,

(*a*) furnishes false information in an investigation under this Act;

(*b*) contravenes a regulation;

(*c*) fails to comply with any order or assurance of voluntary compliance made or entered into under this Act; or

(*d*) obstructs a person making an investigation under section 9 or 10,

is guilty of an offence and on summary conviction is liable to a fine of not more than $2,000 or to imprisonment for a term of not more than one year, or to both.

Idem

(2) Every person who knowingly engages in an unfair practice is guilty of an offence and on summary conviction is liable to a fine of not more than $2,000 or to imprisonment for a term of not more than one year, or to both.

Corporation

(3) Where a corporation is convicted of an offence under subsection 1 or 2, the maximum penalty that may be imposed upon the corporation is $25,000 and not as provided therein.

Directors and officers

(4) Where a corporation has been convicted of an offence under subsection 1 or 2,

(*a*) each director of the corporation; and

(*b*) each officer, servant or agent of the corporation who was in whole or in part responsible for the conduct of that part of the business of the corporation that gave rise to the offence,

is a party to the offence unless he satisfies the court that he had no knowledge of any of the acts constituting the offence, and could not reasonably be expected to have had such knowledge and that he exercised reasonable diligence to prevent the commission of the offence.

Limitation period

(5) No proceedings under this section shall be commenced more than two years after the time when the subject-matter of the proceeding arose.

Commencement

19. This Act comes into force on a day to be named by proclamation of the Lieutenant Governor.

Short title

20. This Act may be cited as *The Business Practices Act, 1974*.

An Act to prohibit unfair
Practices in Sales to Consumers

1st Reading

May 9th, 1974

2nd Reading

3rd Reading

THE HON. J. T. CLEMENT
Minister of Consumer and
Commercial Relations

(*Government Bill*)

1974

BILL 55 Government Bill

4TH SESSION, 29TH LEGISLATURE, ONTARIO
23 ELIZABETH II, 1974

An Act to prohibit unfair Practices in Sales to Consumers

THE HON. J. T. CLEMENT
Minister of Consumer and Commercial Relations

(Reprinted as amended by the Administration of Justice Committee)

TORONTO
PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO

Explanatory Note

The purpose of the Bill is to prohibit and create sanctions against a range of undesirable practices and techniques in consumer sales. The Bill is aimed at practices as applied to any product or service as supplementary or alternative to regulating each industry.

BILL 55 **1974**

An Act to prohibit unfair Practices in Sales to Consumers

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. In this Act, Interpretation

(*a*) "business premises" does not include a dwelling;

(*b*) "consumer" means a natural person but does not include a natural person, partnership or association of individuals acting in the course of carrying on business;

(*c*) "consumer representation" means a representation, statement, offer, request or proposal,

(i) made respecting or with a view to the supplying of goods or services, or both, to a consumer, or

(ii) made for the purpose of or with a view to receiving consideration for goods or services, or both, supplied or purporting to have been supplied to a consumer;

(*d*) "Director" means the Director under *The Ministry of Consumer and Commercial Relations Act*; R.S.O. 1970, c. 113

(*e*) "dwelling" means a premises or any part thereof occupied as living accommodation;

(*f*) "goods" means chattels personal or any right or interest therein other than things in action and money, including chattels that become fixtures but not including securities as defined in *The Securities Act*; R.S.O. 1970, c. 426

(*g*) "Minister" means the Minister of Consumer and Commercial Relations;

(*h*) "regulations" means the regulations made under this Act;

(*i*) "services" means services,

(i) provided in respect of goods or of real property, or

(ii) provided for social, recreational or self-improvement purposes, or

(iii) that are in their nature instructional or educational;

R.S.O. 1970, c. 113

(*j*) "Tribunal" means The Commercial Registration Appeal Tribunal under *The Ministry of Consumer and Commercial Relations Act*.

Unfair practices

2. For the purposes of this Act, the following shall be deemed to be unfair practices,

(*a*) a false, misleading or deceptive consumer representation including, but without limiting the generality of the foregoing,

(i) a representation that the goods or services have sponsorship, approval, performance characteristics, accessories, uses, ingredients, benefits or quantities they do not have,

(ii) a representation that the person who is to supply the goods or services has sponsorship, approval, status, affiliation or connection he does not have,

(iii) a representation that the goods are of a particular standard, quality, grade, style or model, if they are not,

(iv) a representation that the goods are new, or unused, if they are not or are reconditioned or reclaimed, provided that the reasonable use of goods to enable the seller to service, prepare, test and deliver the goods for the purpose of sale shall not be deemed to make the goods used for the purposes of this subclause,

(v) a representation that the goods have been used to an extent that is materially different from the fact,

(vi) a representation that the goods or services are available for a reason that does not exist,

(vii) a representation that the goods or services have been supplied in accordance with a previous representation, if they have not,

(viii) a representation that the goods or services or any part thereof are available to the consumer when the person making the representation knows or ought to know they will not be supplied,

(ix) a representation that a service, part, replacement or repair is needed, if it is not,

(x) a representation that a specific price advantage exists, if it does not,

(xi) a representation that misrepresents the authority of a salesman, representative, employee or agent to negotiate the final terms of the proposed transaction,

(xii) a representation that the proposed transaction involves or does not involve rights, remedies or obligations if the indication is false or misleading,

(xiii) a representation using exaggeration, innuendo or ambiguity as to a material fact or failing to state a material fact if such use or failure deceives or tends to deceive,

(xiv) a representation that misrepresents the purpose or intent of any solicitation of or any communication with a consumer;

(*b*) an unconscionable consumer representation made in respect of a particular transaction and in determining whether or not a consumer representation is unconscionable there may be taken into account that the person making the representation or his employer or principal knows or ought to know,

(i) that the consumer is not reasonably able to protect his interests because of his physical infirmity, ignorance, illiteracy, inability to

understand the language of an agreement or similar factors,

(ii) that the price grossly exceeds the price at which similar goods or services are readily available to like consumers,

(iii) that the consumer is unable to receive a substantial benefit from the subject-matter of the consumer representation,

(iv) that there is no reasonable probability of payment of the obligation in full by the consumer,

(v) that the proposed transaction is excessively one-sided in favour of someone other than the consumer,

(vi) that the terms or conditions of the proposed transaction are so adverse to the consumer as to be inequitable,

(vii) that he is making a misleading statement of opinion on which the consumer is likely to rely to his detriment,

(viii) that he is subjecting the consumer to undue pressure to enter into the transaction;

(*c*) such other consumer representations under clause *a* as are prescribed by the regulations made in accordance with section 17.

Unfair practices prohibited

3.—(1) No person shall engage in an unfair practice.

One act deemed practice

(2) A person who performs one act referred to in section 2 shall be deemed to be engaging in an unfair practice.

Rescission

4.—(1) Subject to subsection 2, any agreement, whether written, oral or implied, entered into by a consumer after a consumer representation that is an unfair practice and that induced the consumer to enter into the agreement,

(*a*) may be rescinded by the consumer and the consumer is entitled to any remedy therefor that is at law available, including damages; or

(*b*) where rescission is not possible because restitution is no longer possible, or because rescission would

deprive a third party of a right in the subject-matter of the agreement that he has acquired in good faith and for value, the consumer is entitled to recover the amount by which the amount paid under the agreement exceeds the fair value of the goods or services received under the agreement or damages, or both.

Exemplary damages

(2) Where the unfair practice referred to in subsection 1 comes within clause *b* of section 2, the court may award exemplary or punitive damages.

Liability

(3) Each person who makes the consumer representation referred to in subsection 1 is liable jointly and severally with the person who entered into the agreement with the consumer for any amount that the consumer is entitled to under subsections 1 and 2.

Liability of assignee R.S.O. 1970, c. 82

(4) Notwithstanding subsection 2 of section 42*a* of *The Consumer Protection Act*, the liability of an assignee of an agreement under subsection 1 or of any right to payment thereunder is limited to the amount paid to the assignee under the agreement.

Time for rescission

(5) A remedy conferred by subsection 1 may be claimed by the giving of notice of the claim by the consumer in writing to each other party to the agreement within six months after the agreement is entered into.

Delivery of notice

(6) A notice under subsection 5 may be delivered personally or sent by registered mail addressed to the person to whom delivery is required to be made, and delivery by registered mail shall be deemed to have been made at the time of mailing.

Evidence

(7) In the trial of an issue under subsection 1, oral evidence respecting an unfair practice is admissible notwithstanding that there is a written agreement and notwithstanding that the evidence pertains to a representation of a term, condition or undertaking that is or is not provided for in the agreement.

Application

(8) This section applies notwithstanding any agreement or waiver to the contrary.

Advertisers excepted from subs. 3

(9) Subsection 3 does not apply to a person who, on behalf of another person, prints, publishes, distributes, broadcasts or telecasts a representation or an advertisement that he accepts in good faith for printing, publishing, distributing, broadcasting or telecasting in the ordinary course of his business.

Consumer representation in sale of real property

5.—(1) A representation made by a real estate agent or salesman in the sale of real property or any interest therein to a consumer shall be deemed to be a consumer representation for the purposes of this Act and section 2 applies thereto, *mutatis mutandis*, in the same manner as to a representation respecting goods or services.

Agreements to purchase real property

(2) Notwithstanding subsection 1 of section 4, where an agreement for the purchase of real property or any interest therein is entered into by a consumer after a consumer representation that,

(*a*) is made by the agent for the vendor;

(*b*) is an unfair practice; and

(*c*) induced the consumer to enter into the agreement,

the agreement may be rescinded by the consumer and the consumer is entitled to any remedy therefor that is at law available, including damages.

Time for rescission

(3) Notwithstanding subsection 5 of section 4, a remedy conferred by subsection 1 may be claimed by the giving of notice of the claim by the consumer in writing to each other party to the agreement before the consumer acquires the legal title or within six months after the agreement is entered into, whichever occurs first.

Duties of Director

6. The Director shall,

(*a*) perform such duties and exercise such powers as are given to or conferred upon the Director under this or any other Act;

(*b*) receive and act on or mediate complaints respecting unfair practices;

(*c*) maintain available for public inspection a record of,

(i) assurances of voluntary compliance entered into under this Act,

(ii) orders to cease engaging in unfair practices issued under this Act.

Order to cease unfair practice

7. (1) Where the Director believes on reasonable and probable grounds that any person is engaging or has engaged

in an unfair practice, the Director may order such person to comply with section 3 in respect of the unfair practice specified in the order.

Notice of proposal

(2) Where the Director proposes to make an order under subsection 1, he shall serve notice of his proposal on each person to be named in the order together with written reasons therefor.

Request for hearing

(3) A notice under subsection 1 shall inform each person to be named in the order that he is entitled to a hearing by the Tribunal if he mails or delivers within fifteen days after the notice under subsection 2 is served on him notice in writing requiring a hearing to the Director and the Tribunal and he may so require such a hearing.

Failure to request hearing

(4) Where a person upon whom a notice is served under subsection 2 does not require a hearing by the Tribunal in accordance with subsection 3, the Director may carry out the proposal stated in the notice.

Hearing

(5) Where a person requires a hearing by the Tribunal in accordance with subsection 3, the Tribunal shall appoint a time for and hold the hearing and, on the application of the Director at the hearing, may by order direct the Director to carry out his proposal or to refrain from carrying out his proposal and to take such action as the Tribunal considers the Director ought to take in accordance with this Act and the regulations and for such purposes the Tribunal may substitute its opinion for that of the Director.

Conditions

(6) The Tribunal may attach such terms and conditions to its order as it considers proper to give effect to the purposes of this Act.

Parties

(7) The Director and the person who has required the hearing and such other persons as the Tribunal may specify are parties to proceedings before the Tribunal under this section.

Order for immediate compliance

8.—(1) Notwithstanding section 7, the Director may make an order under subsection 1 of section 7 to take effect immediately where, in his opinion, to do so is necessary for the protection of the public and, subject to subsection 3, the order takes effect immediately.

Notice of order

(2) Where the Director makes an order under subsection 1, he shall serve each person named in the order with a copy of the order together with written reasons therefor and a notice containing the information required to be in a notice referred to in subsections 2 and 3 of section 7.

Hearing

(3) Where a person named in the order requires a hearing by the Tribunal in accordance with the notice under subsection 2, the Tribunal shall appoint a time for and hold the hearing and may confirm or set aside the order or exercise such other powers as may be exercised in a proceeding under section 7.

Expiration of order

(4) Where a hearing by the Tribunal is required, the order expires fifteen days after the giving of the notice requiring the hearing but, where the hearing is commenced before the expiration of the order, the Tribunal may extend the time of expiration until the hearing is concluded.

Parties

(5) The Director and the person who has required the hearing and such other persons having a direct interest in the order as the Tribunal may specify are parties to proceedings before the Tribunal under this section.

Stay
R.S.O. 1970, c. 113

9. Notwithstanding that, under section 9*b* of *The Ministry of Consumer and Commercial Relations Act*, an appeal is taken from an order of the Tribunal made under section 7 or 8, the order takes effect immediately but the Tribunal may grant a stay until the disposition of the appeal.

Assurance of voluntary compliance

10.—(1) Any person against whom the Director proposes to make an order to comply with section 3 may enter into a written assurance of voluntary compliance in the prescribed form undertaking to not engage in the specified unfair practices after the date thereof.

Assurance deemed order

(2) Where an assurance of voluntary compliance is accepted by the Director, the assurance has and shall be given for all purposes of this Act the force and effect of an order made by the Director.

Undertakings

(3) An assurance of voluntary compliance may include such undertakings as are acceptable to the Director and the Director may receive a bond and collateral therefor as security for the reimbursement of consumers and reimbursement of the Treasurer of Ontario for investigation and other costs in such amount as is satisfactory to the Director.

Investigations by order of Minister

11. The Minister may by order appoint a person to make an investigation into any matter to which this Act applies as may be specified in the Minister's order and the person appointed shall report the result of his investigation to the Minister and, for the purposes of the investigation, the person making it has the powers of a commission under

Part II of *The Public Inquiries Act, 1971*, which Part applies to such investigation as if it were an inquiry under that Act. 1971, c. 49

12.—(1) Where, upon a statement made under oath, the Director believes on reasonable and probable grounds that any person is contravening or is about to contravene any of the provisions of this Act or regulations or an order or assurance of voluntary compliance made or given pursuant to this Act, the Director may by order appoint one or more persons to make an investigation as to whether such a contravention of the Act, regulation, order or assurance of voluntary compliance has occurred and the person appointed shall report the result of his investigation to the Director. Investigation by Director

(2) For purposes relevant to the subject-matter of an investigation under this section, the person appointed to make the investigation may inquire into and examine the affairs of the person in respect of whom the investigation is being made and may, Powers of investigator

(*a*) upon production of his appointment, enter at any reasonable time the business premises of such person and examine books, papers, documents and things relevant to the subject-matter of the investigation; and

(*b*) inquire into the transactions, business affairs, management and practices that are relevant to the subject-matter of the investigation,

and for the purposes of the inquiry, the person making the investigation has the powers of a commission under Part II of *The Public Inquiries Act, 1971*, which Part applies to such inquiry as if it were an inquiry under that Act. 1971, c. 49

(3) No person shall obstruct a person appointed to make an investigation under this section or withhold from him or conceal or destroy any books, papers, documents or things relevant to the subject-matter of the investigation. Obstruction of investigator

(4) Where a provincial judge is satisfied, upon an *ex parte* application by the person making an investigation under this section, that the investigation has been ordered and that such person has been appointed to make it and that there is reasonable ground for believing there are in any building, dwelling, receptacle or place any books, papers, documents or things relating to the person whose affairs are being investigated and to the subject-matter of the Search warrant

investigation, the provincial judge may, whether or not an inspection has been made or attempted under clause *a* of subsection 2, issue an order authorizing the person making the investigation, together with such police officer or officers as he calls upon to assist him, to enter and search, if necessary by force, such building, dwelling, receptacle or place for such books, papers, documents or things and to examine them, but every such entry and search shall be made between sunrise and sunset unless the provincial judge, by the order, authorizes the person making the investigation to make the search at night.

Removal of books, etc.

(5) Any person making an investigation under this section may, upon giving a receipt therefor, remove any books, papers, documents or things examined under clause *a* of subsection 2 or subsection 4 relating to the person whose affairs are being investigated and to the subject-matter of the investigation for the purpose of making copies of such books, papers or documents, but such copying shall be carried out with reasonable dispatch and the books, papers or documents in question shall be promptly thereafter returned to the person whose affairs are being investigated.

Admissibility of copies

(6) Any copy made as provided in subsection 5 and certified to be a true copy by the person making the investigation is admissible in evidence in any action, proceeding or prosecution as *prima facie* proof of the original book, paper or document and its contents.

Appointment of experts

(7) The Minister or Director may appoint any expert to examine books, papers, documents or things examined under clause *a* of subsection 2 or under subsection 4.

Report

(8) Where, upon the report of an investigation made under subsection 1, it appears to the Director that a person may have contravened any of the provisions of this Act or the regulations, the Director shall send a full and complete report of the investigation, including the report made to him, any transcript of evidence and any material in the possession of the Director relating thereto, to the Minister.

Order to refrain from dealing with assets

13.—(1) Where,

(*a*) an investigation of any person has been ordered under section 12; or

(*b*) an order has been issued against a person under section 7 or 8; or

(*c*) an assurance of voluntary compliance has been given under section 10,

the Director, if he believes it advisable for the protection of consumers of the person referred to in clause *a*, *b* or *c* may, in writing or by telegram, direct any person having on deposit or under control or for safekeeping any assets or trust funds of the person referred to in clause *a*, *b* or *c* to hold such assets or trust funds or direct the person referred to in clause *a*, *b* or *c* to refrain from withdrawing any such assets or trust funds from any person having any of them on deposit or under control or for safekeeping or to hold such assets or any trust funds of clients, customers or others in his possession or control in trust for any interim receiver, custodian, trustee, receiver or liquidator appointed under the *Bankruptcy Act* (Canada), *The Judicature Act*, *The Corporations Act*, *The Business Corporations Act* or the *Winding-up Act* (Canada), or until the Director revokes or the Tribunal cancels such direction or consents to the release of any particular assets or trust funds from the direction but, in the case of a bank, loan or trust company, the direction only applies to the office, branches or agencies thereof named in the direction.

R.S.C. 1970, cc B-4, W-11

R.S.O. 1970, cc 228, 89, 53

(2) Subsection 1 does not apply where the person referred to in clause *a*, *b* or *c* of subsection 1 files with the Director,

Bond in lieu

(*a*) a personal bond accompanied by collateral security;

(*b*) a bond of a guarantee company approved under *The Guarantee Companies Securities Act*; or

R.S.O. 1970, c. 196

(*c*) a bond of a guarantor, other than a guarantee company, accompanied by collateral security,

in such form, terms and amount as the Director determines.

(3) Any person in receipt of a direction given under subsection 1, if in doubt as to the application of the direction to any assets or trust funds, or in case of a claim being made thereto by a person not named in the direction, may apply to a judge or local judge of the Supreme Court who may direct the disposition of such assets or trust funds and may make such order as to costs as seems just.

Application for direction

(4) Any person referred to in clause *a*, *b* or *c* of subsection 1 in respect of whom a direction has been given by the Director under subsection 1 may, at any time, apply to the court for cancellation in whole or in part of the direction

Application for cancellation of direction or registration

and the court shall dispose of the application after a hearing and may, if it finds that such a direction is not required in whole or in part for the protection of consumers of the applicant or that the interests of other persons are unduly prejudiced thereby, cancel the direction in whole or in part, and the applicant, the Director and such other persons as the court may specify are parties to the proceedings before the court.

Service of notice

14. Any notice or document required by this Act to be served or given may be served or given personally or by registered mail addressed to the person to whom notice is to be given at his last known address and, where notice is served or given by mail, the service shall be deemed to have been made on the fifth day after the day of mailing unless the person to whom notice is given establishes that he, acting in good faith, through absence, accident, illness or other cause beyond his control, did not receive the notice, or did not receive the notice until a later date.

Matters confidential

15.—(1) Every person employed in the administration of this Act, including any person making an inquiry, inspection or an investigation under section 11 or 12 shall preserve secrecy in respect of all matters that come to his knowledge in the course of his duties, employment, inquiry, inspection or investigation and shall not communicate any such matters to any other person except,

(*a*) as may be required in connection with the administration of this Act and the regulations or any proceedings under this Act or the regulations;

(*b*) to his counsel or to the court in any proceeding under this Act or the regulations;

(*c*) to inform the consumer involved of an unfair practice and of any information relevant to the consumer's rights under this Act; or

(*d*) with the consent of the person to whom the information relates.

Testimony in civil suit

(2) No person to whom subsection 1 applies shall be required to give testimony in any civil suit or proceeding with regard to information obtained by him in the course of his duties, employment, inquiry, inspection or investigation except in a proceeding under this Act or the regulations.

16. A copy of an order or assurance of voluntary compliance purporting to be certified by the Director is, without proof of the office or signature of the Director, receivable in evidence as *prima facie* proof of the facts stated therein for all purposes in any action, proceeding or prosecution. Certificate of Director as evidence

17.—(1) The Lieutenant Governor in Council may make regulations, Regulations

(*a*) requiring persons engaging in a business that includes consumer representations or any class of them to make such returns and furnish such information to the Director as is prescribed;

(*b*) requiring any information required or permitted to be furnished to the Director or contained in any form or return to be verified by affidavit;

(*c*) subject to subsection 2, adding to the consumer representations that are deemed to be unfair practices under clause *a* of section 2;

(*d*) exempting any class of person or type of consumer from this Act or the regulations or any provision thereof;

(*e*) requiring the payment of fees in respect of the inspection of public records maintained under section 6;

(*f*) prescribing forms for the purposes of this Act and providing for their use;

(*g*) prescribing the form, terms and collateral security for bonds given with assurances of voluntary compliance and providing for the forfeiture of bonds and the disposition of the proceeds.

(2) A regulation under clause *c* of subsection 1 may be made when the Assembly is recessed or not in session and expires with the prorogation of the resumed session or of the next ensuing session, as the case may be. Regulation re additional unfair practices

18.—(1) Every person who, knowingly, Offences

(*a*) furnishes false information in an investigation under this Act;

(*b*) contravenes a regulation;

(*c*) fails to comply with any order or assurance of voluntary compliance made or entered into under this Act; or

(*d*) obstructs a person making an investigation under section 11 or 12,

is guilty of an offence and on summary conviction is liable to a fine of not more than $2,000 or to imprisonment for a term of not more than one year, or to both.

Idem

(2) Every person who engages in an unfair practice other than an unfair practice prescribed by a regulation made under subsection 1 of section 16, knowing it to be an unfair practice is guilty of an offence and on summary conviction is liable to a fine of not more than $2,000 or to imprisonment for a term of not more than one year, or to both.

Corporation

(3) Where a corporation is convicted of an offence under subsection 1 or 2, the maximum penalty that may be imposed upon the corporation is $25,000 and not as provided therein.

Directors and officers

(4) Where a corporation has been convicted of an offence under subsection 1 or 2,

(*a*) each director of the corporation; and

(*b*) each officer, servant or agent of the corporation who was in whole or in part responsible for the conduct of that part of the business of the corporation that gave rise to the offence,

is a party to the offence unless he satisfies the court that he did not authorize, permit or acquiesce in the offence.

Limitation period

(5) No proceedings under this section shall be commenced more than two years after the time when the subject-matter of the proceeding arose.

Exemption re advertisements

(6) A representation or advertisement printed, published, distributed, broadcast or telecast by a person on behalf of another in the ordinary course of business under circumstances that are not a contravention of subsection 2 shall not be deemed to be an unfair practice for the purposes of section 3, but this subsection shall not be applied to affect the application of section 7 to the representation.

19. This Act comes into force on a day to be named by proclamation of the Lieutenant Governor. Commencement

20. This Act may be cited as *The Business Practices Act, 1974*. Short title

An Act to prohibit unfair
Practices in Sales to Consumers

1st Reading

May 9th, 1974

2nd Reading

November 28th, 1974

3rd Reading

THE HON. J. T. CLEMENT
Minister of Consumer and
Commercial Relations

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*(Reprinted as amended by the
Administration of Justice Committee)*

1974

BILL 55 **Government Bill**

4TH SESSION, 29TH LEGISLATURE, ONTARIO
23 ELIZABETH II, 1974

An Act to prohibit unfair Practices in Sales to Consumers

THE HON. S. B. HANDLEMAN
Minister of Consumer and Commercial Relations

(Reprinted as amended by the Committee of the Whole House)

TORONTO
PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO

Explanatory Note

The purpose of the Bill is to prohibit and create sanctions against a range of undesirable practices and techniques in consumer sales. The Bill is aimed at practices as applied to any product or service as supplementary or alternative to regulating each industry.

BILL 55 **1974**

An Act to prohibit unfair Practices in Sales to Consumers

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. In this Act, Interpretation

(*a*) "business premises" does not include a dwelling;

(*b*) "consumer" means a natural person but does not include a natural person, partnership or association of individuals acting in the course of carrying on business;

(*c*) "consumer representation" means a representation, statement, offer, request or proposal,

(i) made respecting or with a view to the supplying of goods or services, or both, to a consumer, or

(ii) made for the purpose of or with a view to receiving consideration for goods or services, or both, supplied or purporting to have been supplied to a consumer;

(*d*) "Director" means the Director under *The Ministry of Consumer and Commercial Relations Act*; R.S.O. 1970, c. 113

(*e*) "dwelling" means a premises or any part thereof occupied as living accommodation;

(*f*) "goods" means chattels personal or any right or interest therein other than things in action and money, including chattels that become fixtures but not including securities as defined in *The Securities Act*; R.S.O. 1970, c. 426

(*g*) "Minister" means the Minister of Consumer and Commercial Relations;

(*h*) "regulations" means the regulations made under this Act;

(*i*) "services" means services,

(i) provided in respect of goods or of real property, or

(ii) provided for social, recreational or self-improvement purposes, or

(iii) that are in their nature instructional or educational;

R.S.O. 1970, c. 113

(*j*) "Tribunal" means The Commercial Registration Appeal Tribunal under *The Ministry of Consumer and Commercial Relations Act*.

Unfair practices

2. For the purposes of this Act, the following shall be deemed to be unfair practices,

(*a*) a false, misleading or deceptive consumer representation including, but without limiting the generality of the foregoing,

(i) a representation that the goods or services have sponsorship, approval, performance characteristics, accessories, uses, ingredients, benefits or quantities they do not have,

(ii) a representation that the person who is to supply the goods or services has sponsorship, approval, status, affiliation or connection he does not have,

(iii) a representation that the goods are of a particular standard, quality, grade, style or model, if they are not,

(iv) a representation that the goods are new, or unused, if they are not or are reconditioned or reclaimed, provided that the reasonable use of goods to enable the seller to service, prepare, test and deliver the goods for the purpose of sale shall not be deemed to make the goods used for the purposes of this subclause,

(v) a representation that the goods have been used to an extent that is materially different from the fact,

(vi) a representation that the goods or services are available for a reason that does not exist,

(vii) a representation that the goods or services have been supplied in accordance with a previous representation, if they have not,

(viii) a representation that the goods or services or any part thereof are available to the consumer when the person making the representation knows or ought to know they will not be supplied,

(ix) a representation that a service, part, replacement or repair is needed, if it is not,

(x) a representation that a specific price advantage exists, if it does not,

(xi) a representation that misrepresents the authority of a salesman, representative, employee or agent to negotiate the final terms of the proposed transaction,

(xii) a representation that the proposed transaction involves or does not involve rights, remedies or obligations if the indication is false or misleading,

(xiii) a representation using exaggeration, innuendo or ambiguity as to a material fact or failing to state a material fact if such use or failure deceives or tends to deceive,

(xiv) a representation that misrepresents the purpose or intent of any solicitation of or any communication with a consumer;

(*b*) an unconscionable consumer representation made in respect of a particular transaction and in determining whether or not a consumer representation is unconscionable there may be taken into account that the person making the representation or his employer or principal knows or ought to know,

(i) that the consumer is not reasonably able to protect his interests because of his physical infirmity, ignorance, illiteracy, inability to

understand the language of an agreement or similar factors,

(ii) that the price grossly exceeds the price at which similar goods or services are readily available to like consumers,

(iii) that the consumer is unable to receive a substantial benefit from the subject-matter of the consumer representation,

(iv) that there is no reasonable probability of payment of the obligation in full by the consumer,

(v) that the proposed transaction is excessively one-sided in favour of someone other than the consumer,

(vi) that the terms or conditions of the proposed transaction are so adverse to the consumer as to be inequitable,

(vii) that he is making a misleading statement of opinion on which the consumer is likely to rely to his detriment,

(viii) that he is subjecting the consumer to undue pressure to enter into the transaction;

(*c*) such other consumer representations under clause *a* as are prescribed by the regulations made in accordance with section 16.

Unfair practices prohibited

3.—(1) No person shall engage in an unfair practice.

One act deemed practice

(2) A person who performs one act referred to in section 2 shall be deemed to be engaging in an unfair practice.

Rescission

4.—(1) Subject to subsection 2, any agreement, whether written, oral or implied, entered into by a consumer after a consumer representation that is an unfair practice and that induced the consumer to enter into the agreement,

(*a*) may be rescinded by the consumer and the consumer is entitled to any remedy therefor that is at law available, including damages; or

(*b*) where rescission is not possible because restitution is no longer possible, or because rescission would

deprive a third party of a right in the subject-matter of the agreement that he has acquired in good faith and for value, the consumer is entitled to recover the amount by which the amount paid under the agreement exceeds the fair value of the goods or services received under the agreement or damages, or both.

Exemplary damages

(2) Where the unfair practice referred to in subsection 1 comes within clause *b* of section 2, the court may award exemplary or punitive damages.

Liability

(3) Each person who makes the consumer representation referred to in subsection 1 is liable jointly and severally with the person who entered into the agreement with the consumer for any amount that the consumer is entitled to under subsections 1 and 2.

Liability of assignee R.S.O. 1970, c. 82

(4) Notwithstanding subsection 2 of section 42*a* of *The Consumer Protection Act*, the liability of an assignee of an agreement under subsection 1 or of any right to payment thereunder is limited to the amount paid to the assignee under the agreement.

Time for rescission

(5) A remedy conferred by subsection 1 may be claimed by the giving of notice of the claim by the consumer in writing to each other party to the agreement within six months after the agreement is entered into.

Delivery of notice

(6) A notice under subsection 5 may be delivered personally or sent by registered mail addressed to the person to whom delivery is required to be made, and delivery by registered mail shall be deemed to have been made at the time of mailing.

Evidence

(7) In the trial of an issue under subsection 1, oral evidence respecting an unfair practice is admissible notwithstanding that there is a written agreement and notwithstanding that the evidence pertains to a representation of a term, condition or undertaking that is or is not provided for in the agreement.

Application

(8) This section applies notwithstanding any agreement or waiver to the contrary.

Advertisers excepted from subs. 3

(9) Subsection 3 does not apply to a person who, on behalf of another person, prints, publishes, distributes, broadcasts or telecasts a representation or an advertisement that he accepts in good faith for printing, publishing, distributing, broadcasting or telecasting in the ordinary course of his business.

Duties of Director

The Director shall,

(*a*) perform such duties and exercise such powers as are given to or conferred upon the Director under this or any other Act;

(*b*) receive and act on or mediate complaints respecting unfair practices;

(*c*) maintain available for public inspection a record of,

(i) assurances of voluntary compliance entered into under this Act,

(ii) orders to cease engaging in unfair practices issued under this Act.

Order to cease unfair practice

6.—(1) Where the Director believes on reasonable and probable grounds that any person is engaging or has engaged in an unfair practice, the Director may order such person to comply with section 3 in respect of the unfair practice specified in the order.

Notice of proposal

(2) Where the Director proposes to make an order under subsection 1, he shall serve notice of his proposal on each person to be named in the order together with written reasons therefor.

Request for hearing

(3) A notice under subsection 1 shall inform each person to be named in the order that he is entitled to a hearing by the Tribunal if he mails or delivers within fifteen days after the notice under subsection 2 is served on him notice in writing requiring a hearing to the Director and the Tribunal and he may so require such a hearing.

Failure to request hearing

(4) Where a person upon whom a notice is served under subsection 2 does not require a hearing by the Tribunal in accordance with subsection 3, the Director may carry out the proposal stated in the notice.

Hearing

(5) Where a person requires a hearing by the Tribunal in accordance with subsection 3, the Tribunal shall appoint a time for and hold the hearing and, on the application of the Director at the hearing, may by order direct the Director to carry out his proposal or to refrain from carrying out his proposal and to take such action as the Tribunal considers the Director ought to take in accordance with this Act and the regulations and for such purposes the Tribunal may substitute its opinion for that of the Director.

(6) The Tribunal may attach such terms and conditions to its order as it considers proper to give effect to the purposes of this Act. **Conditions**

(7) The Director and the person who has required the hearing and such other persons as the Tribunal may specify are parties to proceedings before the Tribunal under this section. **Parties**

7.—(1) Notwithstanding section 6, the Director may make an order under subsection 1 of section 6 to take effect immediately where, in his opinion, to do so is necessary for the protection of the public and, subject to subsection 3, the order takes effect immediately. **Order for immediate compliance**

(2) Where the Director makes an order under subsection 1, he shall serve each person named in the order with a copy of the order together with written reasons therefor and a notice containing the information required to be in a notice referred to in subsections 2 and 3 of section 6. **Notice of order**

(3) Where a person named in the order requires a hearing by the Tribunal in accordance with the notice under subsection 2, the Tribunal shall appoint a time for and hold the hearing and may confirm or set aside the order or exercise such other powers as may be exercised in a proceeding under section 6. **Hearing**

(4) Where a hearing by the Tribunal is required, the order expires fifteen days after the giving of the notice requiring the hearing but, where the hearing is commenced before the expiration of the order, the Tribunal may extend the time of expiration until the hearing is concluded. **Expiration of order**

(5) The Director and the person who has required the hearing and such other persons having a direct interest in the order as the Tribunal may specify are parties to proceedings before the Tribunal under this section. **Parties**

8. Notwithstanding that, under section 9*b* of *The Ministry of Consumer and Commercial Relations Act*, an appeal is taken from an order of the Tribunal made under section 6 or 7, the order takes effect immediately but the Tribunal may grant a stay until the disposition of the appeal. **Stay** R.S.O. 1970, c. 113

9.—(1) Any person against whom the Director proposes to make an order to comply with section 3 may enter into a written assurance of voluntary compliance in the prescribed form undertaking to not engage in the specified unfair practices after the date thereof. **Assurance of voluntary compliance**

Assurance deemed order

(2) Where an assurance of voluntary compliance is accepted by the Director, the assurance has and shall be given for all purposes of this Act the force and effect of an order made by the Director.

Undertakings

(3) An assurance of voluntary compliance may include such undertakings as are acceptable to the Director and the Director may receive a bond and collateral therefor as security for the reimbursement of consumers and reimbursement of the Treasurer of Ontario for investigation and other costs in such amount as is satisfactory to the Director.

Investigations by order of Minister

10. The Minister may by order appoint a person to make an investigation into any matter to which this Act applies as may be specified in the Minister's order and the person appointed shall report the result of his investigation to the Minister and, for the purposes of the investigation, the person making it has the powers of a commission under Part II of *The Public Inquiries Act, 1971*, which Part applies to such investigation as if it were an inquiry under that Act.

1971, c. 49

Investigation by Director

11.—(1) Where, upon a statement made under oath, the Director believes on reasonable and probable grounds that any person is contravening or is about to contravene any of the provisions of this Act or regulations or an order or assurance of voluntary compliance made or given pursuant to this Act, the Director may by order appoint one or more persons to make an investigation as to whether such a contravention of the Act, regulation, order or assurance of voluntary compliance has occurred and the person appointed shall report the result of his investigation to the Director.

Powers of investigator

(2) For purposes relevant to the subject-matter of an investigation under this section, the person appointed to make the investigation may inquire into and examine the affairs of the person in respect of whom the investigation is being made and may,

(*a*) upon production of his appointment, enter at any reasonable time the business premises of such person and examine books, papers, documents and things relevant to the subject-matter of the investigation; and

(*b*) inquire into the transactions, business affairs, management and practices that are relevant to the subject-matter of the investigation,

and for the purposes of the inquiry, the person making the investigation has the powers of a commission under Part II of *The Public Inquiries Act, 1971*, which Part applies to such inquiry as if it were an inquiry under that Act. 1971, c. 49

(3) No person shall obstruct a person appointed to make an investigation under this section or withhold from him or conceal or destroy any books, papers, documents or things relevant to the subject-matter of the investigation. Obstruction of investigator

(4) Where a provincial judge is satisfied, upon an *ex parte* application by the person making an investigation under this section, that the investigation has been ordered and that such person has been appointed to make it and that there is reasonable ground for believing there are in any building, dwelling, receptacle or place any books, papers, documents or things relating to the person whose affairs are being investigated and to the subject-matter of the investigation, the provincial judge may, whether or not an inspection has been made or attempted under clause *a* of subsection 2, issue an order authorizing the person making the investigation, together with such police officer or officers as he calls upon to assist him, to enter and search, if necessary by force, such building, dwelling, receptacle or place for such books, papers, documents or things and to examine them, but every such entry and search shall be made between sunrise and sunset unless the provincial judge, by the order, authorizes the person making the investigation to make the search at night. Search warrant

(5) Any person making an investigation under this section may, upon giving a receipt therefor, remove any books, papers, documents or things examined under clause *a* of subsection 2 or subsection 4 relating to the person whose affairs are being investigated and to the subject-matter of the investigation for the purpose of making copies of such books, papers or documents, but such copying shall be carried out with reasonable dispatch and the books, papers or documents in question shall be promptly thereafter returned to the person whose affairs are being investigated. Removal of books, etc.

(6) Any copy made as provided in subsection 5 and certified to be a true copy by the person making the investigation is admissible in evidence in any action, proceeding or prosecution as *prima facie* proof of the original book, paper or document and its contents. Admissibility of copies

(7) The Minister or Director may appoint any expert to examine books, papers, documents or things examined under clause *a* of subsection 2 or under subsection 4. Appointment of experts

Report

(8) Where, upon the report of an investigation made under subsection 1, it appears to the Director that a person may have contravened any of the provisions of this Act or the regulations, the Director shall send a full and complete report of the investigation, including the report made to him, any transcript of evidence and any material in the possession of the Director relating thereto, to the Minister.

Order to refrain from dealing with assets

12.—(1) Where,

(*a*) an investigation of any person has been ordered under section 11; or

(*b*) an order has been issued against a person under section 6 or 7; or

(*c*) an assurance of voluntary compliance has been given under section 9,

the Director, if he believes it advisable for the protection of consumers of the person referred to in clause *a*, *b* or *c* may, in writing or by telegram, direct any person having on deposit or under control or for safekeeping any assets or trust funds of the person referred to in clause *a*, *b* or *c* to hold such assets or trust funds or direct the person referred to in clause *a*, *b* or *c* to refrain from withdrawing any such assets or trust funds from any person having any of them on deposit or under control or for safekeeping or to hold such assets or any trust funds of clients, customers or others in his possession or control in trust for any interim receiver, custodian, trustee, receiver or liquidator appointed under the *Bankruptcy Act* (Canada), *The Judicature Act*, *The Corporations Act*, *The Business Corporations Act* or the *Winding-up Act* (Canada), or until the Director revokes or the Tribunal cancels such direction or consents to the release of any particular assets or trust funds from the direction but, in the case of a bank, loan or trust company, the direction only applies to the office, branches or agencies thereof named in the direction.

R.S.C. 1970, cc. B-4, W-11

R.S.O. 1970, cc. 228, 89, 53

Bond in lieu

(2) Subsection 1 does not apply where the person referred to in clause *a*, *b* or *c* of subsection 1 files with the Director,

(*a*) a personal bond accompanied by collateral security;

(*b*) a bond of a guarantee company approved under *The Guarantee Companies Securities Act*; or

R.S.O. 1970, c. 196

(*c*) a bond of a guarantor, other than a guarantee company, accompanied by collateral security,

in such form, terms and amount as the Director determines.

(3) Any person in receipt of a direction given under subsection 1, if in doubt as to the application of the direction to any assets or trust funds, or in case of a claim being made thereto by a person not named in the direction, may apply to a judge or local judge of the Supreme Court who may direct the disposition of such assets or trust funds and may make such order as to costs as seems just. Application for direction

(4) Any person referred to in clause *a*, *b* or *c* of subsection 1 in respect of whom a direction has been given by the Director under subsection 1 may, at any time, apply to the court for cancellation in whole or in part of the direction and the court shall dispose of the application after a hearing and may, if it finds that such a direction is not required in whole or in part for the protection of consumers of the applicant or that the interests of other persons are unduly prejudiced thereby, cancel the direction in whole or in part, and the applicant, the Director and such other persons as the court may specify are parties to the proceedings before the court. Application for cancellation of direction or registration

13. Any notice or document required by this Act to be served or given may be served or given personally or by registered mail addressed to the person to whom notice is to be given at his last known address and, where notice is served or given by mail, the service shall be deemed to have been made on the fifth day after the day of mailing unless the person to whom notice is given establishes that he, acting in good faith, through absence, accident, illness or other cause beyond his control, did not receive the notice, or did not receive the notice until a later date. Service of notice

14.—(1) Every person employed in the administration of this Act, including any person making an inquiry, inspection or an investigation under section 10 or 11 shall preserve secrecy in respect of all matters that come to his knowledge in the course of his duties, employment, inquiry, inspection or investigation and shall not communicate any such matters to any other person except, Matters confidential

(*a*) as may be required in connection with the administration of this Act and the regulations or any proceedings under this Act or the regulations;

(*b*) to his counsel or to the court in any proceeding under this Act or the regulations;

(*c*) to inform the consumer involved of an unfair practice and of any information relevant to the consumer's rights under this Act; or

(*d*) with the consent of the person to whom the information relates.

Testimony in civil suit

(2) No person to whom subsection 1 applies shall be required to give testimony in any civil suit or proceeding with regard to information obtained by him in the course of his duties, employment, inquiry, inspection or investigation except in a proceeding under this Act or the regulations.

Certificate of Director as evidence

15. A copy of an order or assurance of voluntary compliance purporting to be certified by the Director is, without proof of the office or signature of the Director, receivable in evidence as *prima facie* proof of the facts stated therein for all purposes in any action, proceeding or prosecution.

Regulations

16.—(1) The Lieutenant Governor in Council may make regulations,

(*a*) requiring persons engaging in a business that includes consumer representations or any class of them to make such returns and furnish such information to the Director as is prescribed;

(*b*) requiring any information required or permitted to be furnished to the Director or contained in any form or return to be verified by affidavit;

(*c*) subject to subsection 2, adding to the consumer representations that are deemed to be unfair practices under clause *a* of section 2;

(*d*) exempting any class of person or type of consumer from this Act or the regulations or any provision thereof;

(*e*) requiring the payment of fees in respect of the inspection of public records maintained under section 5;

(*f*) prescribing forms for the purposes of this Act and providing for their use;

(*g*) prescribing the form, terms and collateral security for bonds given with assurances of voluntary compliance and providing for the forfeiture of bonds and the disposition of the proceeds.

Regulation re additional unfair practices

(2) A regulation under clause *c* of subsection 1 may be made when the Assembly is recessed or not in session and expires with the prorogation of the resumed session or of the next ensuing session, as the case may be.

17.—(1) Every person who, knowingly, Offences

(*a*) furnishes false information in an investigation under this Act;

(*b*) contravenes a regulation;

(*c*) fails to comply with any order or assurance of voluntary compliance made or entered into under this Act; or

(*d*) obstructs a person making an investigation under section 10 or 11,

is guilty of an offence and on summary conviction is liable to a fine of not more than $2,000 or to imprisonment for a term of not more than one year, or to both.

(2) Every person who engages in an unfair practice other than an unfair practice prescribed by a regulation made under clause *c* of subsection 1 of section 16, knowing it to be an unfair practice is guilty of an offence and on summary conviction is liable to a fine of not more than $2,000 or to imprisonment for a term of not more than one year, or to both. Idem

(3) Where a corporation is convicted of an offence under subsection 1 or 2, the maximum penalty that may be imposed upon the corporation is $25,000 and not as provided therein. Corporation

(4) Where a corporation has been convicted of an offence under subsection 1 or 2, Directors and officers

(*a*) each director of the corporation; and

(*b*) each officer, servant or agent of the corporation who was in whole or in part responsible for the conduct of that part of the business of the corporation that gave rise to the offence,

is a party to the offence unless he satisfies the court that he did not authorize, permit or acquiesce in the offence.

(5) No proceedings under this section shall be commenced more than two years after the time when the subject-matter of the proceeding arose. Limitation period

(6) A representation or advertisement printed, published, distributed, broadcast or telecast by a person on behalf of another in the ordinary course of business under circumstances that are not a contravention of subsection 2 shall Exemption re advertisements

not be deemed to be an unfair practice for the purposes of section 3, but this subsection shall not be applied to affect the application of section 6 to the representation.

Commencement

18. This Act comes into force on a day to be named by proclamation of the Lieutenant Governor.

Short title

19. This Act may be cited as *The Business Practices Act, 1974*.

An Act to prohibit unfair
Practices in Sales to Consumers

1st Reading

May 9th, 1974

2nd Reading

November 28th, 1974

3rd Reading

THE HON. S. B. HANDLEMAN
Minister of Consumer and
Commercial Relations

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*(Reprinted as amended by the
Committee of the Whole House)*

1974

BILL 55

4TH SESSION, 29TH LEGISLATURE, ONTARIO
23 ELIZABETH II, 1974

An Act to prohibit unfair Practices in Sales to Consumers

THE HON. S. B. HANDLEMAN
Minister of Consumer and Commercial Relations

TORONTO
PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO

BILL 55 **1974**

An Act to prohibit unfair Practices in Sales to Consumers

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. In this Act, Interpretation

(*a*) "business premises" does not include a dwelling;

(*b*) "consumer" means a natural person but does not include a natural person, partnership or association of individuals acting in the course of carrying on business;

(*c*) "consumer representation" means a representation, statement, offer, request or proposal,

(i) made respecting or with a view to the supplying of goods or services, or both, to a consumer, or

(ii) made for the purpose of or with a view to receiving consideration for goods or services, or both, supplied or purporting to have been supplied to a consumer;

(*d*) "Director" means the Director under *The Ministry of Consumer and Commercial Relations Act*; R.S.O. 1970, c. 113

(*e*) "dwelling" means a premises or any part thereof occupied as living accommodation;

(*f*) "goods" means chattels personal or any right or interest therein other than things in action and money, including chattels that become fixtures but not including securities as defined in *The Securities Act*; R.S.O. 1970, c. 426

(*g*) "Minister" means the Minister of Consumer and Commercial Relations;

(*h*) "regulations" means the regulations made under this Act;

(*i*) "services" means services,

(i) provided in respect of goods or of real property, or

(ii) provided for social, recreational or self-improvement purposes, or

(iii) that are in their nature instructional or educational;

R.S.O. 1970, c. 113

(*j*) "Tribunal" means The Commercial Registration Appeal Tribunal under *The Ministry of Consumer and Commercial Relations Act*.

Unfair practices

2. For the purposes of this Act, the following shall be deemed to be unfair practices,

(*a*) a false, misleading or deceptive consumer representation including, but without limiting the generality of the foregoing,

(i) a representation that the goods or services have sponsorship, approval, performance characteristics, accessories, uses, ingredients, benefits or quantities they do not have,

(ii) a representation that the person who is to supply the goods or services has sponsorship, approval, status, affiliation or connection he does not have,

(iii) a representation that the goods are of a particular standard, quality, grade, style or model, if they are not,

(iv) a representation that the goods are new, or unused, if they are not or are reconditioned or reclaimed, provided that the reasonable use of goods to enable the seller to service, prepare, test and deliver the goods for the purpose of sale shall not be deemed to make the goods used for the purposes of this subclause,

(v) a representation that the goods have been used to an extent that is materially different from the fact,

(vi) a representation that the goods or services are available for a reason that does not exist,

(vii) a representation that the goods or services have been supplied in accordance with a previous representation, if they have not,

(viii) a representation that the goods or services or any part thereof are available to the consumer when the person making the representation knows or ought to know they will not be supplied,

(ix) a representation that a service, part, replacement or repair is needed, if it is not,

(x) a representation that a specific price advantage exists, if it does not,

(xi) a representation that misrepresents the authority of a salesman, representative, employee or agent to negotiate the final terms of the proposed transaction,

(xii) a representation that the proposed transaction involves or does not involve rights, remedies or obligations if the indication is false or misleading,

(xiii) a representation using exaggeration, innuendo or ambiguity as to a material fact or failing to state a material fact if such use or failure deceives or tends to deceive,

(xiv) a representation that misrepresents the purpose or intent of any solicitation of or any communication with a consumer;

(*b*) an unconscionable consumer representation made in respect of a particular transaction and in determining whether or not a consumer representation is unconscionable there may be taken into account that the person making the representation or his employer or principal knows or ought to know,

(i) that the consumer is not reasonably able to protect his interests because of his physical infirmity, ignorance, illiteracy, inability to

understand the language of an agreement or similar factors,

(ii) that the price grossly exceeds the price at which similar goods or services are readily available to like consumers,

(iii) that the consumer is unable to receive a substantial benefit from the subject-matter of the consumer representation,

(iv) that there is no reasonable probability of payment of the obligation in full by the consumer,

(v) that the proposed transaction is excessively one-sided in favour of someone other than the consumer,

(vi) that the terms or conditions of the proposed transaction are so adverse to the consumer as to be inequitable,

(vii) that he is making a misleading statement of opinion on which the consumer is likely to rely to his detriment,

(viii) that he is subjecting the consumer to undue pressure to enter into the transaction;

(*c*) such other consumer representations under clause *a* as are prescribed by the regulations made in accordance with section 16.

Unfair practices prohibited

3.—(1) No person shall engage in an unfair practice.

One act deemed practice

(2) A person who performs one act referred to in section 2 shall be deemed to be engaging in an unfair practice.

Rescission

4.—(1) Subject to subsection 2, any agreement, whether written, oral or implied, entered into by a consumer after a consumer representation that is an unfair practice and that induced the consumer to enter into the agreement,

(*a*) may be rescinded by the consumer and the consumer is entitled to any remedy therefor that is at law available, including damages; or

(*b*) where rescission is not possible because restitution is no longer possible, or because rescission would

deprive a third party of a right in the subject-matter of the agreement that he has acquired in good faith and for value, the consumer is entitled to recover the amount by which the amount paid under the agreement exceeds the fair value of the goods or services received under the agreement or damages, or both.

(2) Where the unfair practice referred to in subsection 1 comes within clause *b* of section 2, the court may award exemplary or punitive damages. Exemplary damages

(3) Each person who makes the consumer representation referred to in subsection 1 is liable jointly and severally with the person who entered into the agreement with the consumer for any amount that the consumer is entitled to under subsections 1 and 2. Liability

(4) Notwithstanding subsection 2 of section 42*a* of *The Consumer Protection Act*, the liability of an assignee of an agreement under subsection 1 or of any right to payment thereunder is limited to the amount paid to the assignee under the agreement. Liability of assignee R.S.O. 1970, c. 82

(5) A remedy conferred by subsection 1 may be claimed by the giving of notice of the claim by the consumer in writing to each other party to the agreement within six months after the agreement is entered into. Time for rescission

(6) A notice under subsection 5 may be delivered personally or sent by registered mail addressed to the person to whom delivery is required to be made, and delivery by registered mail shall be deemed to have been made at the time of mailing. Delivery of notice

(7) In the trial of an issue under subsection 1, oral evidence respecting an unfair practice is admissible notwithstanding that there is a written agreement and notwithstanding that the evidence pertains to a representation of a term, condition or undertaking that is or is not provided for in the agreement. Evidence

(8) This section applies notwithstanding any agreement or waiver to the contrary. Application

(9) Subsection 3 does not apply to a person who, on behalf of another person, prints, publishes, distributes, broadcasts or telecasts a representation or an advertisement that he accepts in good faith for printing, publishing, distributing, broadcasting or telecasting in the ordinary course of his business. Advertisers excepted from subs. 3

Duties of Director

The Director shall,

(*a*) perform such duties and exercise such powers as are given to or conferred upon the Director under this or any other Act;

(*b*) receive and act on or mediate complaints respecting unfair practices;

(*c*) maintain available for public inspection a record of,

(i) assurances of voluntary compliance entered into under this Act,

(ii) orders to cease engaging in unfair practices issued under this Act.

Order to cease unfair practice

6.—(1) Where the Director believes on reasonable and probable grounds that any person is engaging or has engaged in an unfair practice, the Director may order such person to comply with section 3 in respect of the unfair practice specified in the order.

Notice of proposal

(2) Where the Director proposes to make an order under subsection 1, he shall serve notice of his proposal on each person to be named in the order together with written reasons therefor.

Request for hearing

(3) A notice under subsection 1 shall inform each person to be named in the order that he is entitled to a hearing by the Tribunal if he mails or delivers within fifteen days after the notice under subsection 2 is served on him notice in writing requiring a hearing to the Director and the Tribunal and he may so require such a hearing.

Failure to request hearing

(4) Where a person upon whom a notice is served under subsection 2 does not require a hearing by the Tribunal in accordance with subsection 3, the Director may carry out the proposal stated in the notice.

Hearing

(5) Where a person requires a hearing by the Tribunal in accordance with subsection 3, the Tribunal shall appoint a time for and hold the hearing and, on the application of the Director at the hearing, may by order direct the Director to carry out his proposal or to refrain from carrying out his proposal and to take such action as the Tribunal considers the Director ought to take in accordance with this Act and the regulations and for such purposes the Tribunal may substitute its opinion for that of the Director.

(6) The Tribunal may attach such terms and conditions to its order as it considers proper to give effect to the purposes of this Act. Conditions

(7) The Director and the person who has required the hearing and such other persons as the Tribunal may specify are parties to proceedings before the Tribunal under this section. Parties

7.—(1) Notwithstanding section 6, the Director may make an order under subsection 1 of section 6 to take effect immediately where, in his opinion, to do so is necessary for the protection of the public and, subject to subsection 3, the order takes effect immediately. Order for immediate compliance

(2) Where the Director makes an order under subsection 1, he shall serve each person named in the order with a copy of the order together with written reasons therefor and a notice containing the information required to be in a notice referred to in subsections 2 and 3 of section 6. Notice of order

(3) Where a person named in the order requires a hearing by the Tribunal in accordance with the notice under subsection 2, the Tribunal shall appoint a time for and hold the hearing and may confirm or set aside the order or exercise such other powers as may be exercised in a proceeding under section 6. Hearing

(4) Where a hearing by the Tribunal is required, the order expires fifteen days after the giving of the notice requiring the hearing but, where the hearing is commenced before the expiration of the order, the Tribunal may extend the time of expiration until the hearing is concluded. Expiration of order

(5) The Director and the person who has required the hearing and such other persons having a direct interest in the order as the Tribunal may specify are parties to proceedings before the Tribunal under this section. Parties

8. Notwithstanding that, under section 9*b* of *The Ministry of Consumer and Commercial Relations Act*, an appeal is taken from an order of the Tribunal made under section 6 or 7, the order takes effect immediately but the Tribunal may grant a stay until the disposition of the appeal. Stay R.S.O. 1970, c. 113

9.—(1) Any person against whom the Director proposes to make an order to comply with section 3 may enter into a written assurance of voluntary compliance in the prescribed form undertaking to not engage in the specified unfair practices after the date thereof. Assurance of voluntary compliance

Assurance deemed order

(2) Where an assurance of voluntary compliance is accepted by the Director, the assurance has and shall be given for all purposes of this Act the force and effect of an order made by the Director.

Undertakings

(3) An assurance of voluntary compliance may include such undertakings as are acceptable to the Director and the Director may receive a bond and collateral therefor as security for the reimbursement of consumers and reimbursement of the Treasurer of Ontario for investigation and other costs in such amount as is satisfactory to the Director.

Investigations by order of Minister

10. The Minister may by order appoint a person to make an investigation into any matter to which this Act applies as may be specified in the Minister's order and the person appointed shall report the result of his investigation to the Minister and, for the purposes of the investigation, the person making it has the powers of a commission under Part II of *The Public Inquiries Act, 1971*, which Part applies to such investigation as if it were an inquiry under that Act.

1971, c. 49

Investigation by Director

11. (1) Where, upon a statement made under oath, the Director believes on reasonable and probable grounds that any person is contravening or is about to contravene any of the provisions of this Act or regulations or an order or assurance of voluntary compliance made or given pursuant to this Act, the Director may by order appoint one or more persons to make an investigation as to whether such a contravention of the Act, regulation, order or assurance of voluntary compliance has occurred and the person appointed shall report the result of his investigation to the Director.

Powers of investigator

(2) For purposes relevant to the subject-matter of an investigation under this section, the person appointed to make the investigation may inquire into and examine the affairs of the person in respect of whom the investigation is being made and may,

(*a*) upon production of his appointment, enter at any reasonable time the business premises of such person and examine books, papers, documents and things relevant to the subject-matter of the investigation; and

(*b*) inquire into the transactions, business affairs, management and practices that are relevant to the subject-matter of the investigation,

and for the purposes of the inquiry, the person making the investigation has the powers of a commission under Part II of *The Public Inquiries Act, 1971*, which Part applies to such inquiry as if it were an inquiry under that Act. 1971, c. 49

(3) No person shall obstruct a person appointed to make an investigation under this section or withhold from him or conceal or destroy any books, papers, documents or things relevant to the subject-matter of the investigation. Obstruction of investigator

(4) Where a provincial judge is satisfied, upon an *ex parte* application by the person making an investigation under this section, that the investigation has been ordered and that such person has been appointed to make it and that there is reasonable ground for believing there are in any building, dwelling, receptacle or place any books, papers, documents or things relating to the person whose affairs are being investigated and to the subject-matter of the investigation, the provincial judge may, whether or not an inspection has been made or attempted under clause *a* of subsection 2, issue an order authorizing the person making the investigation, together with such police officer or officers as he calls upon to assist him, to enter and search, if necessary by force, such building, dwelling, receptacle or place for such books, papers, documents or things and to examine them, but every such entry and search shall be made between sunrise and sunset unless the provincial judge, by the order, authorizes the person making the investigation to make the search at night. Search warrant

(5) Any person making an investigation under this section may, upon giving a receipt therefor, remove any books, papers, documents or things examined under clause *a* of subsection 2 or subsection 4 relating to the person whose affairs are being investigated and to the subject-matter of the investigation for the purpose of making copies of such books, papers or documents, but such copying shall be carried out with reasonable dispatch and the books, papers or documents in question shall be promptly thereafter returned to the person whose affairs are being investigated. Removal of books, etc.

(6) Any copy made as provided in subsection 5 and certified to be a true copy by the person making the investigation is admissible in evidence in any action, proceeding or prosecution as *prima facie* proof of the original book, paper or document and its contents. Admissibility of copies

(7) The Minister or Director may appoint any expert to examine books, papers, documents or things examined under clause *a* of subsection 2 or under subsection 4. Appointment of experts

Report

(8) Where, upon the report of an investigation made under subsection 1, it appears to the Director that a person may have contravened any of the provisions of this Act or the regulations, the Director shall send a full and complete report of the investigation, including the report made to him, any transcript of evidence and any material in the possession of the Director relating thereto, to the Minister.

Order to refrain from dealing with assets

12.—(1) Where,

(*a*) an investigation of any person has been ordered under section 11; or

(*b*) an order has been issued against a person under section 6 or 7; or

(*c*) an assurance of voluntary compliance has been given under section 9,

the Director, if he believes it advisable for the protection of consumers of the person referred to in clause *a*, *b* or *c* may, in writing or by telegram, direct any person having on deposit or under control or for safekeeping any assets or trust funds of the person referred to in clause *a*, *b* or *c* to hold such assets or trust funds or direct the person referred to in clause *a*, *b* or *c* to refrain from withdrawing any such assets or trust funds from any person having any of them on deposit or under control or for safekeeping or to hold such assets or any trust funds of clients, customers or others in his possession or control in trust for any interim receiver, custodian, trustee, receiver or liquidator appointed under the *Bankruptcy Act* (Canada), *The Judicature Act*, *The Corporations Act*, *The Business Corporations Act* or the *Winding-up Act* (Canada), or until the Director revokes or the Tribunal cancels such direction or consents to the release of any particular assets or trust funds from the direction but, in the case of a bank, loan or trust company, the direction only applies to the office, branches or agencies thereof named in the direction.

R.S.C. 1970, cc. B-4, W-11

R.S.O. 1970, cc. 228, 89, 53

Bond in lieu

(2) Subsection 1 does not apply where the person referred to in clause *a*, *b* or *c* of subsection 1 files with the Director,

(*a*) a personal bond accompanied by collateral security;

(*b*) a bond of a guarantee company approved under *The Guarantee Companies Securities Act*; or

R.S.O. 1970, c. 196

(*c*) a bond of a guarantor, other than a guarantee company, accompanied by collateral security,

in such form, terms and amount as the Director determines.

(3) Any person in receipt of a direction given under subsection 1, if in doubt as to the application of the direction to any assets or trust funds, or in case of a claim being made thereto by a person not named in the direction, may apply to a judge or local judge of the Supreme Court who may direct the disposition of such assets or trust funds and may make such order as to costs as seems just. Application for direction

(4) Any person referred to in clause *a*, *b* or *c* of subsection 1 in respect of whom a direction has been given by the Director under subsection 1 may, at any time, apply to the court for cancellation in whole or in part of the direction and the court shall dispose of the application after a hearing and may, if it finds that such a direction is not required in whole or in part for the protection of consumers of the applicant or that the interests of other persons are unduly prejudiced thereby, cancel the direction in whole or in part, and the applicant, the Director and such other persons as the court may specify are parties to the proceedings before the court. Application for cancellation of direction or registration

13. Any notice or document required by this Act to be served or given may be served or given personally or by registered mail addressed to the person to whom notice is to be given at his last known address and, where notice is served or given by mail, the service shall be deemed to have been made on the fifth day after the day of mailing unless the person to whom notice is given establishes that he, acting in good faith, through absence, accident, illness or other cause beyond his control, did not receive the notice, or did not receive the notice until a later date. Service of notice

14.—(1) Every person employed in the administration of this Act, including any person making an inquiry, inspection or an investigation under section 10 or 11 shall preserve secrecy in respect of all matters that come to his knowledge in the course of his duties, employment, inquiry, inspection or investigation and shall not communicate any such matters to any other person except, Matters confidential

(*a*) as may be required in connection with the administration of this Act and the regulations or any proceedings under this Act or the regulations;

(*b*) to his counsel or to the court in any proceeding under this Act or the regulations;

(*c*) to inform the consumer involved of an unfair practice and of any information relevant to the consumer's rights under this Act; or

(*d*) with the consent of the person to whom the information relates.

Testimony in civil suit

(2) No person to whom subsection 1 applies shall be required to give testimony in any civil suit or proceeding with regard to information obtained by him in the course of his duties, employment, inquiry, inspection or investigation except in a proceeding under this Act or the regulations.

Certificate of Director as evidence

15. A copy of an order or assurance of voluntary compliance purporting to be certified by the Director is, without proof of the office or signature of the Director, receivable in evidence as *prima facie* proof of the facts stated therein for all purposes in any action, proceeding or prosecution.

Regulations

16.—(1) The Lieutenant Governor in Council may make regulations,

(*a*) requiring persons engaging in a business that includes consumer representations or any class of them to make such returns and furnish such information to the Director as is prescribed;

(*b*) requiring any information required or permitted to be furnished to the Director or contained in any form or return to be verified by affidavit;

(*c*) subject to subsection 2, adding to the consumer representations that are deemed to be unfair practices under clause *a* of section 2;

(*d*) exempting any class of person or type of consumer from this Act or the regulations or any provision thereof;

(*e*) requiring the payment of fees in respect of the inspection of public records maintained under section 5;

(*f*) prescribing forms for the purposes of this Act and providing for their use;

(*g*) prescribing the form, terms and collateral security for bonds given with assurances of voluntary compliance and providing for the forfeiture of bonds and the disposition of the proceeds.

Regulation re additional unfair practices

(2) A regulation under clause *c* of subsection 1 may be made when the Assembly is recessed or not in session and expires with the prorogation of the resumed session or of the next ensuing session, as the case may be.

17.—(1) Every person who, knowingly, Offences

(*a*) furnishes false information in an investigation under this Act;

(*b*) contravenes a regulation;

(*c*) fails to comply with any order or assurance of voluntary compliance made or entered into under this Act; or

(*d*) obstructs a person making an investigation under section 10 or 11,

is guilty of an offence and on summary conviction is liable to a fine of not more than $2,000 or to imprisonment for a term of not more than one year, or to both.

(2) Every person who engages in an unfair practice other than an unfair practice prescribed by a regulation made under clause *c* of subsection 1 of section 16, knowing it to be an unfair practice is guilty of an offence and on summary conviction is liable to a fine of not more than $2,000 or to imprisonment for a term of not more than one year, or to both. Idem

(3) Where a corporation is convicted of an offence under subsection 1 or 2, the maximum penalty that may be imposed upon the corporation is $25,000 and not as provided therein. Corporation

(4) Where a corporation has been convicted of an offence under subsection 1 or 2, Directors and officers

(*a*) each director of the corporation; and

(*b*) each officer, servant or agent of the corporation who was in whole or in part responsible for the conduct of that part of the business of the corporation that gave rise to the offence,

is a party to the offence unless he satisfies the court that he did not authorize, permit or acquiesce in the offence.

(5) No proceedings under this section shall be commenced more than two years after the time when the subject-matter of the proceeding arose. Limitation period

(6) A representation or advertisement printed, published, distributed, broadcast or telecast by a person on behalf of another in the ordinary course of business under circumstances that are not a contravention of subsection 2 shall Exemption re advertisements

not be deemed to be an unfair practice for the purposes of section 3, but this subsection shall not be applied to affect the application of section 6 to the representation.

Commencement

18. This Act comes into force on a day to be named by proclamation of the Lieutenant Governor.

Short title

19. This Act may be cited as *The Business Practices Act, 1974*.

An Act to prohibit unfair
Practices in Sales to Consumers

1st Reading

May 9th, 1974

2nd Reading

November 28th, 1974

3rd Reading

February 7th, 1975

THE HON. S. B. HANDLEMAN
Minister of Consumer and
Commercial Relations

1974

BILL 56 **Government Bill**

4TH SESSION, 29TH LEGISLATURE, ONTARIO
23 ELIZABETH II, 1974

An Act to amend The Business Corporations Act

THE HON. J. T. CLEMENT
Minister of Consumer and Commercial Relations

TORONTO
PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO

Explanatory Notes

The Bill excepts from the Canadian resident requirements of the Act corporations that, although incorporated in Ontario, are non-resident corporations for income tax purposes.

Section 1. The definition of non-resident corporation is added and the definition of resident Canadian is amended to include landed immigrants.

Section 2. Non-resident corporations are excepted from the requirement that a majority of the directors be resident Canadians.

Section 3. Non-resident corporations are excepted from the requirement that a majority of the meetings of the board of directors and executive committee be held in Canada.

BILL 56 **1974**

An Act to amend The Business Corporations Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) Subsection 1 of section 1 of *The Business Corporations Act*, being chapter 53 of the Revised Statutes of Ontario, 1970, as amended by the Statutes of Ontario, 1971, chapter 26, section 1, 1972, chapter 1, section 30, and 1972, chapter 138, section 1, is further amended by adding thereto the following paragraph: s. 1 (1), amended

18*a*. "non-resident corporation" means a corporation that is not deemed to be resident in Canada under paragraph *c* of subsection 4 of section 250 of the *Income Tax Act* (Canada). 1970-71, c. 63 (Can.)

(2) Paragraph 23*a* of subsection 1 of the said section 1, as enacted by the Statutes of Ontario, 1972, chapter 138, section 1, is repealed and the following substituted therefor: s. 1 (1), par. 23a, re-enacted

23*a*. "resident Canadian" means an individual who is a Canadian citizen or has been lawfully admitted to Canada for permanent residence and who is ordinarily resident in Canada.

2. Subsection 3 of section 122 of the said Act, as enacted by the Statutes of Ontario, 1972, chapter 138, section 30, is repealed and the following substituted therefor: s. 122 (3), re-enacted

(3) A majority of directors on the board of directors of every corporation other than a non-resident corporation shall be resident Canadians. Directors to be resident Canadians

3. Subsection 2 of section 130 of the said Act, as re-enacted by the Statutes of Ontario, 1972, chapter 138, section 33, is repealed and the following substituted therefor: s. 130 (2), re-enacted

Exception

(2) Where the by-laws of the corporation so provide, the meetings of the board of directors and of the executive committee may be held at any place within or outside Ontario, but, except where the corporation is a non-resident corporation, in any financial year of the corporation a majority of the meetings of the board of directors and a majority of the meetings of the executive committee shall be held at a place within Canada.

s. 132 (2), re-enacted

4. Subsection 2 of section 132 of the said Act, as re-enacted by the Statutes of Ontario, 1972, chapter 138, section 34, is repealed and the following substituted therefor:

Conduct of business

(2) Subject to section 133 and subsection 1 of section 23, no business of a corporation shall be transacted by its board of directors except at a meeting of directors at which a quorum of the board is present and, except where the corporation is a non-resident corporation, at which a majority of the directors present are resident Canadians.

s. 133 (1), re-enacted

5.—(1) Subsection 1 of section 133 of the said Act, as re-enacted by the Statutes of Ontario, 1972, chapter 138, section 35, is repealed and the following substituted therefor:

Executive committee

(1) Where the number of directors of a corporation is more than six, and if authorized by a special by-law, the directors may elect from among their number an executive committee consisting of not fewer than three of whom, except where the corporation is a non-resident corporation, a majority shall be resident Canadians and the directors may delegate to the executive committee any powers of the board of directors, subject to the restrictions, if any, contained in the by-law or imposed from time to time by the directors.

s. 133 (3), re-enacted

(2) Subsection 3 of the said section 133, as enacted by the Statutes of Ontario, 1972, chapter 138, section 35, is repealed and the following substituted therefor:

Conduct of business

(3) No business shall be transacted by an executive committee except at a meeting of its members at which a quorum of the executive committee is present and, except where the corporation is a non-resident corporation, at which a majority of the members present are resident Canadians.

SECTION 4. Non-resident corporations are excepted from the requirement that a majority of directors at a meeting be resident Canadians

SECTION 5. Non-resident corporations are excepted from the requirement that a majority of the directors on the executive committee and present at its meetings be resident Canadians.

6. This Act shall be deemed to have come into force on the 1st day of October, 1973. Commencement

7. This Act may be cited as *The Business Corporations Amendment Act, 1974*. Short title

An Act to amend
The Business Corporations Act

1st Reading

May 9th, 1974

2nd Reading

3rd Reading

THE HON. J. T. CLEMENT
Minister of Consumer and
Commercial Relations

(*Government Bill*)

1974

BILL 56

4TH SESSION, 29TH LEGISLATURE, ONTARIO
23 ELIZABETH II, 1974

An Act to amend The Business Corporations Act

THE HON. J. T. CLEMENT
Minister of Consumer and Commercial Relations

TORONTO
PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO

BILL 56 **1974**

An Act to amend The Business Corporations Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) Subsection 1 of section 1 of *The Business Corporations Act*, being chapter 53 of the Revised Statutes of Ontario, 1970, as amended by the Statutes of Ontario, 1971, chapter 26, section 1, 1972, chapter 1, section 30, and 1972, chapter 138, section 1, is further amended by adding thereto the following paragraph: s. 1 (1), amended

18*a*. "non-resident corporation" means a corporation that is not deemed to be resident in Canada under paragraph *c* of subsection 4 of section 250 of the *Income Tax Act* (Canada). 1970-71, c. 63 (Can.)

(2) Paragraph 23*a* of subsection 1 of the said section 1, as enacted by the Statutes of Ontario, 1972, chapter 138, section 1, is repealed and the following substituted therefor: s. 1 (1), par. 23*a*, re-enacted

23*a*. "resident Canadian" means an individual who is a Canadian citizen or has been lawfully admitted to Canada for permanent residence and who is ordinarily resident in Canada.

2. Subsection 3 of section 122 of the said Act, as enacted by the Statutes of Ontario, 1972, chapter 138, section 30, is repealed and the following substituted therefor: s. 122 (3), re-enacted

(3) A majority of directors on the board of directors of every corporation other than a non-resident corporation shall be resident Canadians. Directors to be resident Canadians

3. Subsection 2 of section 130 of the said Act, as re-enacted by the Statutes of Ontario, 1972, chapter 138, section 33, is repealed and the following substituted therefor: s. 130 (2), re-enacted

Exception

(2) Where the by-laws of the corporation so provide, the meetings of the board of directors and of the executive committee may be held at any place within or outside Ontario, but, except where the corporation is a non-resident corporation, in any financial year of the corporation a majority of the meetings of the board of directors and a majority of the meetings of the executive committee shall be held at a place within Canada.

s. 132 (2), re-enacted

4. Subsection 2 of section 132 of the said Act, as re-enacted by the Statutes of Ontario, 1972, chapter 138, section 34, is repealed and the following substituted therefor:

Conduct of business

(2) Subject to section 133 and subsection 1 of section 23, no business of a corporation shall be transacted by its board of directors except at a meeting of directors at which a quorum of the board is present and, except where the corporation is a non-resident corporation, at which a majority of the directors present are resident Canadians.

s. 133 (1), re-enacted

5.—(1) Subsection 1 of section 133 of the said Act, as re-enacted by the Statutes of Ontario, 1972, chapter 138, section 35, is repealed and the following substituted therefor:

Executive committee

(1) Where the number of directors of a corporation is more than six, and if authorized by a special by-law, the directors may elect from among their number an executive committee consisting of not fewer than three of whom, except where the corporation is a non-resident corporation, a majority shall be resident Canadians and the directors may delegate to the executive committee any powers of the board of directors, subject to the restrictions, if any, contained in the by-law or imposed from time to time by the directors.

s. 133 (3), re-enacted

(2) Subsection 3 of the said section 133, as enacted by the Statutes of Ontario, 1972, chapter 138, section 35, is repealed and the following substituted therefor:

Conduct of business

(3) No business shall be transacted by an executive committee except at a meeting of its members at which a quorum of the executive committee is present and, except where the corporation is a non-resident corporation, at which a majority of the members present are resident Canadians.

6. This Act shall be deemed to have come into force on the 1st day of October, 1973. Commencement

7. This Act may be cited as *The Business Corporations Amendment Act, 1974*. Short title

An Act to amend
The Business Corporations Act

1st Reading

May 9th, 1974

2nd Reading

June 6th, 1974

3rd Reading

June 6th, 1974

THE HON. J. T. CLEMENT
Minister of Consumer and
Commercial Relations

1974

BILL 57 **Government Bill**

4TH SESSION, 29TH LEGISLATURE, ONTARIO
23 ELIZABETH II, 1974

An Act to amend The Paperback and Periodical Distributors Act, 1971

THE HON. J. T. CLEMENT
Minister of Consumer and Commercial Relations

TORONTO
PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO

Explanatory Notes

Section 1.—Subsection 1. The definition of equity share is enlarged to include any share carrying a voting right.

Subsection 2. Landed immigrants are excluded from the definition of non-residents.

Subsection 3. What constitutes control is defined for the purpose of identifying corporations under non-residential control.

BILL 57 **1974**

An Act to amend The Paperback and Periodical Distributors Act, 1971

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) Clause *e* of subsection 1 of section 1 of *The Paperback and Periodical Distributors Act, 1971*, being chapter 82, is repealed and the following substituted therefor: s. 1 (1) (e), re-enacted

(*e*) "equity share" means a share of a class of shares that carries a voting right either under all circumstances or under some circumstances that have occurred and are continuing.

(2) Subclause i of clause *g* of subsection 1 of the said section 1 is repealed and the following substituted therefor: s. 1 (1) (*g*) (i), re-enacted

(i) an individual who is not a Canadian citizen or has not been lawfully admitted to Canada for permanent residence.

(3) The said section 1, as amended by the Statutes of Ontario, 1972, chapter 1, section 50, is further amended by adding thereto the following subsection: s. 1, amended

(1*a*) For the purposes of subclause iv of clause *g* of subsection 1, a corporation shall be deemed to be controlled by another person or corporation or by two or more corporations if, Control

(*a*) equity shares of the first-mentioned corporation carrying more than 50 per cent of the votes for the election of directors are held, otherwise than by way of security only, by or for the benefit of such other person or corporation or by or for the benefit of such other corporations; and

(*b*) the votes carried by such securities are sufficient, if exercised, to elect a majority of the board of directors of the first-mentioned corporation.

s. 9, amended

2. Section 9 of the said Act is amended by adding thereto the following subsection:

Idem

(1*a*) In calculating the total number of equity shares of the corporation beneficially owned or controlled for the purposes of this section, the total number shall be calculated as the total of all the shares actually owned or controlled, but each share that carries the right to more than one vote shall be calculated as the number of shares equalling the total number of votes it carries.

Commencement

3. This Act comes into force on the day it receives Royal Assent.

Short title

4. This Act may be cited as *The Paperback and Periodical Distributors Amendment Act, 1974.*

SECTION 2. The number of equity shares owned is determined by the number of votes they carry.

An Act to amend
The Paperback and Periodical
Distributors Act, 1971

1st Reading

May 9th, 1974

2nd Reading

3rd Reading

THE HON. J. T. CLEMENT
Minister of Consumer and
Commercial Relations

(*Government Bill*)

1974

BILL 57

4TH SESSION, 29TH LEGISLATURE, ONTARIO
23 ELIZABETH II, 1974

An Act to amend The Paperback and Periodical Distributors Act, 1971

THE HON. J. T. CLEMENT
Minister of Consumer and Commercial Relations

TORONTO
PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO

BILL 57 **1974**

An Act to amend The Paperback and Periodical Distributors Act, 1971

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) Clause *e* of subsection 1 of section 1 of *The Paperback and Periodical Distributors Act, 1971*, being chapter 82, is repealed and the following substituted therefor: s. 1 (1) (e), re-enacted

(*e*) "equity share" means a share of a class of shares that carries a voting right either under all circumstances or under some circumstances that have occurred and are continuing.

(2) Subclause i of clause *g* of subsection 1 of the said section 1 is repealed and the following substituted therefor: s. 1 (1) (g) (i), re-enacted

(i) an individual who is not a Canadian citizen or has not been lawfully admitted to Canada for permanent residence.

(3) The said section 1, as amended by the Statutes of Ontario, 1972, chapter 1, section 50, is further amended by adding thereto the following subsection: s. 1, amended

(1*a*) For the purposes of subclause iv of clause *g* of subsection 1, a corporation shall be deemed to be controlled by another person or corporation or by two or more corporations if, Control

(*a*) equity shares of the first-mentioned corporation carrying more than 50 per cent of the votes for the election of directors are held, otherwise than by way of security only, by or for the benefit of such other person or corporation or by or for the benefit of such other corporations; and

(*b*) the votes carried by such securities are sufficient, if exercised, to elect a majority of the board of directors of the first-mentioned corporation.

s. 9, amended

2. Section 9 of the said Act is amended by adding thereto the following subsection:

Idem

(1*a*) In calculating the total number of equity shares of the corporation beneficially owned or controlled for the purposes of this section, the total number shall be calculated as the total of all the shares actually owned or controlled, but each share that carries the right to more than one vote shall be calculated as the number of shares equalling the total number of votes it carries.

Commencement

3. This Act comes into force on the day it receives Royal Assent.

Short title

4. This Act may be cited as *The Paperback and Periodical Distributors Amendment Act, 1974*.

An Act to amend
The Paperback and Periodical
Distributors Act, 1971

1st Reading

May 9th, 1974

2nd Reading

June 6th, 1974

3rd Reading

June 6th, 1974

THE HON. J. T. CLEMENT
Minister of Consumer and
Commercial Relations

BILL 58 Government Bill

4TH SESSION, 29TH LEGISLATURE, ONTARIO
23 ELIZABETH II, 1974

An Act to amend The Mortgage Brokers Act

THE HON. J. T. CLEMENT
Minister of Consumer and Commercial Relations

TORONTO
PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO

Explanatory Notes

Section 1.—Subsection 1. The definition of equity share is enlarged to include any share carrying a voting right.

Subsection 2. What constitutes control is defined for the purpose of identifying corporations under residential control.

Section 2. The number of equity shares owned is determined by the number of votes they carry.

BILL 58 **1974**

An Act to amend The Mortgage Brokers Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) Clause *bb* of section 1 of *The Mortgage Brokers Act*, being chapter 278 of the Revised Statutes of Ontario, 1970, as enacted by the Statutes of Ontario, 1973, chapter 103, section 1, is repealed and the following substituted therefor: s. 1 (*bb*), re-enacted

(*bb*) "equity share" means a share of a class of shares that carries a voting right either under all circumstances or under some circumstances that have occurred and are continuing.

(2) The said section 1, as amended by the Statutes of Ontario, 1971, chapter 50, section 59, 1972, chapter 1, section 45 and 1973, chapter 103, section 1, is further amended by adding thereto the following subsection: s. 1, amended

(2) For the purposes of subclause ii of clause *ia* of subsection 1, a corporation shall be deemed to be controlled by another person or corporation or by two or more corporations if, Control

(*a*) equity shares of the first-mentioned corporation carrying more than 50 per cent of the votes for the election of directors are held, otherwise than by way of security only, by or for the benefit of such other person or corporation or by or for the benefit of such other corporations; and

(*b*) the votes carried by such securities are sufficient, if exercised, to elect a majority of the board of directors of the first-mentioned corporation.

2. Section 9 of the said Act, as enacted by the Statutes of Ontario, 1973, chapter 103, section 3, is amended by adding thereto the following subsection: s. 9, amended

Idem

(1*a*) In calculating the total number of equity shares of the corporation beneficially owned or controlled for the purposes of this section, the total number shall be calculated as the total of all the shares actually owned or controlled, but each share that carries the right to more than one vote shall be calculated as the number of shares equalling the total number of votes it carries.

Commencement

3. This Act comes into force on the day it receives Royal Assent.

Short title

4. This Act may be cited as *The Mortgage Brokers Amendment Act, 1974*.

An Act to amend
The Mortgage Brokers Act

1st Reading

May 9th, 1974

2nd Reading

3rd Reading

THE HON. J. T. CLEMENT
Minister of Consumer and
Commercial Relations

(*Government Bill*)

1974

BILL 58

4TH SESSION, 29TH LEGISLATURE, ONTARIO
23 ELIZABETH II, 1974

An Act to amend The Mortgage Brokers Act

THE HON. J. T. CLEMENT
Minister of Consumer and Commercial Relations

TORONTO
PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO

BILL 58 **1974**

An Act to amend The Mortgage Brokers Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) Clause *bb* of section 1 of *The Mortgage Brokers Act*, being chapter 278 of the Revised Statutes of Ontario, 1970, as enacted by the Statutes of Ontario, 1973, chapter 103, section 1, is repealed and the following substituted therefor: s. 1 (*bb*), re-enacted

(*bb*) "equity share" means a share of a class of shares that carries a voting right either under all circumstances or under some circumstances that have occurred and are continuing.

(2) The said section 1, as amended by the Statutes of Ontario, 1971, chapter 50, section 59, 1972, chapter 1, section 45 and 1973, chapter 103, section 1, is further amended by adding thereto the following subsection: s. 1, amended

(2) For the purposes of subclause ii of clause *ia* of subsection 1, a corporation shall be deemed to be controlled by another person or corporation or by two or more corporations if, Control

(*a*) equity shares of the first-mentioned corporation carrying more than 50 per cent of the votes for the election of directors are held, otherwise than by way of security only, by or for the benefit of such other person or corporation or by or for the benefit of such other corporations; and

(*b*) the votes carried by such securities are sufficient, if exercised, to elect a majority of the board of directors of the first-mentioned corporation.

2. Section 9 of the said Act, as enacted by the Statutes of Ontario, 1973, chapter 103, section 3, is amended by adding thereto the following subsection: s. 9, amended

Idem

(1*a*) In calculating the total number of equity shares of the corporation beneficially owned or controlled for the purposes of this section, the total number shall be calculated as the total of all the shares actually owned or controlled, but each share that carries the right to more than one vote shall be calculated as the number of shares equalling the total number of votes it carries.

Commencement

3. This Act comes into force on the day it receives Royal Assent.

Short title

4. This Act may be cited as *The Mortgage Brokers Amendment Act, 1974*.

An Act to amend
The Mortgage Brokers Act

1st Reading

May 9th, 1974

2nd Reading

June 6th, 1974

3rd Reading

June 6th, 1974

THE HON. J. T. CLEMENT
Minister of Consumer and
Commercial Relations

BILL 59 Government Bill

4TH SESSION, 29TH LEGISLATURE, ONTARIO
23 ELIZABETH II, 1974

An Act to amend The Collection Agencies Act

THE HON. J. T. CLEMENT
Minister of Consumer and Commercial Relations

TORONTO
PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO

Explanatory Notes

Section 1.—Subsection 1. The definition of collection agency is amended by deleting the element of dealing with the debtor.

Subsections 2 and 3. Complementary to sections 2, 3 and 4 of this Bill.

BILL 59 1974

An Act to amend The Collection Agencies Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) Clause *aa* of section 1 of *The Collection Agencies Act*, being chapter 71 of the Revised Statutes of Ontario, 1970, as relettered by the Statutes of Ontario, 1971, chapter 50, section 21, is repealed and the following substituted therefor: s. 1 (*aa*), re-enacted

(*aa*) "collection agency" means a person other than a collector who obtains or arranges for payment of money owing to another person, or who holds out to the public that he provides such a service or any person who sells or offers to sell forms or letters represented to be a collection system or scheme.

(2) The said section 1, as amended by the Statutes of Ontario, 1971, chapter 50, section 21 and 1972, chapter 1, section 33, is further amended by adding thereto the following clauses: s. 1, amended

(*db*) "equity share" means a share of a class of shares that carries a voting right either under all circumstances or under some circumstances that have occurred and are continuing;

. . . . .

(*eb*) "non-resident" means an individual, corporation or trust that is not a resident;

. . . . .

(*ia*) "resident" means,

(i) an individual who is a Canadian citizen or has been lawfully admitted to Canada

for permanent residence and who is ordinarily resident in Canada,

(ii) a corporation that is incorporated, formed or organized in Canada and that is controlled directly or indirectly by persons who are residents or by a resident trust, or

(iii) a trust that is established by resident individuals or a resident corporation or one in which resident individuals or corporations hold more than 50 per cent of the beneficial interest.

s. 1, amended

(3) The said section 1 is further amended by adding thereto the following subsection:

Corporations

(2) For the purposes of subclause ii of clause *ia* of subsection 1, a corporation shall be deemed to be controlled by another person or corporation or by two or more corporations if,

(*a*) equity shares of the first-mentioned corporation carrying more than 50 per cent of the votes for the election of directors are held, otherwise than by way of security only, by or for the benefit of such other person or corporation or by or for the benefit of such other corporations; and

(*b*) the votes carried by such securities are sufficient, if exercised, to elect a majority of the board of directors of the first-mentioned corporation.

s. 6(1), amended

2. Subsection 1 of section 6 of the said Act, as re-enacted by the Statutes of Ontario, 1971, chapter 50, section 21, is amended by adding "or" at the end of clause *d* and by adding thereto the following clause:

(*e*) the applicant fails to comply with section 10 or 11.

s. 22, renumbered ss. 10, 11, enacted

3. The said Act is amended by renumbering section 22 as section 9 and by adding thereto the following sections:

Resident requirements re individuals

10.—(1) Subject to subsection 2, no individual shall carry on business in Ontario as a collection agency unless,

(*a*) he is a resident; or

(*b*) where he is a member of a partnership or an association, syndicate or organization of individuals, every member thereof is a resident.

SECTIONS 2, 3 AND 4. The new provisions implement the requirement that collection agencies be owned by Canadian residents.

(2) An individual who is carrying on business as a registered collection agency immediately before the 9th day of May, 1974, and who on that day is in contravention of subsection 1, may continue to carry on business, subject to the provisions of this Act if, Idem

(*a*) his interest or any part thereof is not transferred to or for the benefit of a non-resident; or

(*b*) where he is a member of a partnership or an association, syndicate or organization of individuals, no person who is a non-resident is admitted as a member thereof.

11.—(1) No corporation shall carry on business in Ontario as a collection agency if, Resident requirements re corporations

(*a*) the total number of equity shares of the corporation beneficially owned, directly or indirectly, by non-residents or over which non-residents exercise control or direction exceeds 25 per cent of the total number of issued and outstanding equity shares of the corporation;

(*b*) the total number of equity shares of the corporation beneficially owned, directly or indirectly, by a non-resident over which he exercises control or direction together with any other shareholders associated with him, if any, exceeds 10 per cent of the total number of issued and outstanding equity shares of the corporation; or

(*c*) the corporation is not incorporated by or under an Act of Ontario, Canada or any province of Canada.

(2) In calculating the total number of equity shares of the corporation beneficially owned or controlled for the purposes of this section, the total number shall be calculated as the total of all the shares actually owned or controlled, but each share that carries the right to more that one vote shall be calculated as the number of shares equalling the total number of votes it carries. Idem

(3) A corporation that was carrying on business as a registered collection agency immediately before the 9th day of May, 1974, and which on that day is in contravention of subsection 1, may continue to carry on business, subject to the provisions of this Act, Idem

(*a*) in the case of a contravention of clause *a* or *b* of subsection 1, if no transfer or equity shares or beneficial interest therein including their control or direction is made to a non-resident or person associated with him excepting when the result would be in compliance with clause *a* or *b* of subsection 1; or

(*b*) in the case of a contravention of clause *c* of subsection 1, until the 1st day of January, 1976 but a corporation incorporated after this Act comes into force and before the 1st day of January, 1976 by or under an Act of Ontario, Canada or a province of Canada may, notwithstanding clauses *a* and *b* of subsection 1, be registered in the place of the first-mentioned corporation if the equity shares of the new corporation or beneficial interest therein including their control or direction, held by non-residents are held directly or indirectly in the same manner as the equity shares of the first-mentioned corporation, but where the new corporation is in contravention of clause *a* or *b* of subsection 1, clause *a* of this subsection applies.

Associated shareholders

(4) For the purpose of this section, a shareholder shall be deemed to be associated with another shareholder if,

(*a*) one shareholder is a corporation of which the other shareholder is an officer or director;

(*b*) one shareholder is a partner of which the other shareholder is a partner;

(*c*) one shareholder is a corporation that is controlled, directly or indirectly, by the other shareholder;

(*d*) both shareholders are corporations and one shareholder is controlled, directly or indirectly, by the same individual or corporation that controls, directly or indirectly, the other shareholder;

(*e*) both shareholders are members of a voting trust where the trust relates to shares of a corporation; or

(*f*) both shareholders are associated within the meaning of clauses *a* to *e* with the same shareholder.

Joint ownership

(5) For the purposes of this section, where an equity share of the corporation is held jointly and one or more

of the jointholders thereof is a non-resident, this share shall be deemed to be held by a non-resident.

4. Section 39 of the said Act is amended by adding thereto the following clause: s. 39. amended

(*ab*) exempting persons or classes of persons from this Act or the regulations or any provisions thereof in addition to those exempted under section 2.

5. This Act comes into force on the day it receives Royal Assent. Commencement

6. This Act may be cited as *The Collection Agencies Amendment Act, 1974*. Short title

An Act to amend
The Collection Agencies Act

1st Reading

May 9th, 1974

2nd Reading

3rd Reading

THE HON. J. T. CLEMENT
Minister of Consumer and
Commercial Relations

(*Government Bill*)

1974

BILL 59

4TH SESSION, 29TH LEGISLATURE, ONTARIO
23 ELIZABETH II, 1974

An Act to amend The Collection Agencies Act

THE HON. J. T. CLEMENT
Minister of Consumer and Commercial Relations

TORONTO
PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO

BILL 59 1974

An Act to amend The Collection Agencies Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) Clause *aa* of section 1 of *The Collection Agencies Act*, being chapter 71 of the Revised Statutes of Ontario, 1970, as relettered by the Statutes of Ontario, 1971, chapter 50, section 21, is repealed and the following substituted therefor: s. 1 (*aa*), re-enacted

(*aa*) "collection agency" means a person other than a collector who obtains or arranges for payment of money owing to another person, or who holds out to the public that he provides such a service or any person who sells or offers to sell forms or letters represented to be a collection system or scheme.

(2) The said section 1, as amended by the Statutes of Ontario, 1971, chapter 50, section 21 and 1972, chapter 1, section 33, is further amended by adding thereto the following clauses: s. 1, amended

(*db*) "equity share" means a share of a class of shares that carries a voting right either under all circumstances or under some circumstances that have occurred and are continuing;

. . . . .

(*eb*) "non-resident" means an individual, corporation or trust that is not a resident;

. . . . .

(*ia*) "resident" means,

(i) an individual who is a Canadian citizen or has been lawfully admitted to Canada

for permanent residence and who is ordinarily resident in Canada,

(ii) a corporation that is incorporated, formed or organized in Canada and that is controlled directly or indirectly by persons who are residents or by a resident trust, or

(iii) a trust that is established by resident individuals or a resident corporation or one in which resident individuals or corporations hold more than 50 per cent of the beneficial interest.

s. 1, amended

(3) The said section 1 is further amended by adding thereto the following subsection:

Corporations

(2) For the purposes of subclause ii of clause *ia* of subsection 1, a corporation shall be deemed to be controlled by another person or corporation or by two or more corporations if,

(*a*) equity shares of the first-mentioned corporation carrying more than 50 per cent of the votes for the election of directors are held, otherwise than by way of security only, by or for the benefit of such other person or corporation or by or for the benefit of such other corporations; and

(*b*) the votes carried by such securities are sufficient, if exercised, to elect a majority of the board of directors of the first-mentioned corporation.

s. 6 (1), amended

2. Subsection 1 of section 6 of the said Act, as re-enacted by the Statutes of Ontario, 1971, chapter 50, section 21, is amended by adding "or" at the end of clause *d* and by adding thereto the following clause:

(*e*) the applicant fails to comply with section 10 or 11.

s. 22, renumbered ss. 10, 11, enacted

3. The said Act is amended by renumbering section 22 as section 9 and by adding thereto the following sections:

Resident requirements re individuals

10.—(1) Subject to subsection 2, no individual shall carry on business in Ontario as a collection agency unless,

(*a*) he is a resident; or

(*b*) where he is a member of a partnership or an association, syndicate or organization of individuals, every member thereof is a resident.

(2) An individual who is carrying on business as a registered collection agency immediately before the 9th day of May, 1974, and who on that day is in contravention of subsection 1, may continue to carry on business, subject to the provisions of this Act if, Idem

(*a*) his interest or any part thereof is not transferred to or for the benefit of a non-resident; or

(*b*) where he is a member of a partnership or an association, syndicate or organization of individuals, no person who is a non-resident is admitted as a member thereof.

11.—(1) No corporation shall carry on business in Ontario as a collection agency if, Resident requirements re corporations

(*a*) the total number of equity shares of the corporation beneficially owned, directly or indirectly, by non-residents or over which non-residents exercise control or direction exceeds 25 per cent of the total number of issued and outstanding equity shares of the corporation;

(*b*) the total number of equity shares of the corporation beneficially owned, directly or indirectly, by a non-resident over which he exercises control or direction together with any other shareholders associated with him, if any, exceeds 10 per cent of the total number of issued and outstanding equity shares of the corporation; or

(*c*) the corporation is not incorporated by or under an Act of Ontario, Canada or any province of Canada.

(2) In calculating the total number of equity shares of the corporation beneficially owned or controlled for the purposes of this section, the total number shall be calculated as the total of all the shares actually owned or controlled, but each share that carries the right to more that one vote shall be calculated as the number of shares equalling the total number of votes it carries. Idem

(3) A corporation that was carrying on business as a registered collection agency immediately before the 9th day of May, 1974, and which on that day is in contravention of subsection 1, may continue to carry on business, subject to the provisions of this Act, Idem

(*a*) in the case of a contravention of clause *a* or *b* of subsection 1, if no transfer or equity shares or beneficial interest therein including their control or direction is made to a non-resident or person associated with him excepting when the result would be in compliance with clause *a* or *b* of subsection 1; or

(*b*) in the case of a contravention of clause *c* of subsection 1, until the 1st day of January, 1976 but a corporation incorporated after this Act comes into force and before the 1st day of January, 1976 by or under an Act of Ontario, Canada or a province of Canada may, notwithstanding clauses *a* and *b* of subsection 1, be registered in the place of the first-mentioned corporation if the equity shares of the new corporation or beneficial interest therein including their control or direction, held by non-residents are held directly or indirectly in the same manner as the equity shares of the first-mentioned corporation, but where the new corporation is in contravention of clause *a* or *b* of subsection 1, clause *a* of this subsection applies.

Associated shareholders

(4) For the purpose of this section, a shareholder shall be deemed to be associated with another shareholder if,

(*a*) one shareholder is a corporation of which the other shareholder is an officer or director;

(*b*) one shareholder is a partner of which the other shareholder is a partner;

(*c*) one shareholder is a corporation that is controlled, directly or indirectly, by the other shareholder;

(*d*) both shareholders are corporations and one shareholder is controlled, directly or indirectly, by the same individual or corporation that controls, directly or indirectly, the other shareholder;

(*e*) both shareholders are members of a voting trust where the trust relates to shares of a corporation; or

(*f*) both shareholders are associated within the meaning of clauses *a* to *e* with the same shareholder.

Joint ownership

(5) For the purposes of this section, where an equity share of the corporation is held jointly and one or more

of the jointholders thereof is a non-resident, this share shall be deemed to be held by a non-resident.

4. Section 39 of the said Act is amended by adding thereto the following clause: s. 39. amended

(*ab*) exempting persons or classes of persons from this Act or the regulations or any provisions thereof in addition to those exempted under section 2.

5. This Act comes into force on the day it receives Royal Assent. Commencement

6. This Act may be cited as *The Collection Agencies Amendment Act, 1974*. Short title

An Act to amend
The Collection Agencies Act

1st Reading

May 9th, 1974

2nd Reading

June 6th, 1974

3rd Reading

June 6th, 1974

THE HON. J. T. CLEMENT
Minister of Consumer and
Commercial Relations

1974

BILL 60 **Government Bill**

4TH SESSION, 29TH LEGISLATURE, ONTARIO
23 ELIZABETH II, 1974

An Act to amend The Regional Municipality of Niagara Act

THE HON. J. WHITE
Treasurer of Ontario and Minister of Economics
and Intergovernmental Affairs

TORONTO
PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO

Explanatory Note

Section 1. The subsection added provides that the present wards into which the area municipalities are divided, as established by order of the Minister, remain in effect until altered by the Municipal Board.

BILL 60 **1974**

An Act to amend The Regional Municipality of Niagara Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 3 of *The Regional Municipality of Niagara Act*, being chapter 406 of the Revised Statutes of Ontario, 1970, as amended by the Statutes of Ontario, 1972, chapter 51, section 1, is further amended by adding thereto the following subsection: s. 3. amended

(5) Where the Minister has divided or redivided an area municipality into wards by order made under subsection 3, such division or redivision remains in effect until altered by the Municipal Board and the Municipal Board may divide or redivide any such area municipality into wards in accordance with the provisions of section 13 of *The Municipal Act*. Effect of Minister's order R.S.O. 1970, c. 284

2. This Act comes into force on the day it receives Royal Assent. Commencement

3. This Act may be cited as *The Regional Municipality of Niagara Amendment Act, 1974*. Short title

An Act to amend
The Regional Municipality of
Niagara Act

1st Reading

May 9th, 1974

2nd Reading

3rd Reading

THE HON. J. WHITE
Treasurer of Ontario and Minister of
Economics and Intergovernmental
Affairs

(*Government Bill*)

1974

BILL 60

4TH SESSION, 29TH LEGISLATURE, ONTARIO
23 ELIZABETH II, 1974

An Act to amend The Regional Municipality of Niagara Act

THE HON. J. WHITE
Treasurer of Ontario and Minister of Economics
and Intergovernmental Affairs

TORONTO
PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO

BILL 60 **1974**

An Act to amend The Regional Municipality of Niagara Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 3 of *The Regional Municipality of Niagara Act*, being chapter 406 of the Revised Statutes of Ontario, 1970, as amended by the Statutes of Ontario, 1972, chapter 51, section 1, is further amended by adding thereto the following subsection: s. 3, amended

(5) Where the Minister has divided or redivided an area municipality into wards by order made under subsection 3, such division or redivision remains in effect until altered by the Municipal Board and the Municipal Board may divide or redivide any such area municipality into wards in accordance with the provisions of section 13 of *The Municipal Act*. Effect of Minister's order; R.S.O. 1970, c. 284

2. This Act comes into force on the day it receives Royal Assent. Commencement

3. This Act may be cited as *The Regional Municipality of Niagara Amendment Act, 1974*. Short title

An Act to amend
The Regional Municipality of
Niagara Act

1st Reading

May 9th, 1974

2nd Reading

June 10th, 1974

3rd Reading

June 10th, 1974

THE HON. J. WHITE
Treasurer of Ontario and Minister of
Economics and Intergovernmental
Affairs

1974

BILL 61 **Private Member's Bill**

4TH SESSION, 29TH LEGISLATURE, ONTARIO
23 ELIZABETH II, 1974

An Act to amend The Environmental Protection Act, 1971

MR. BURR

TORONTO
PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO

Explanatory Note

The Bill provides that where a person proposes to produce, apply or use atomic energy, that certain information will be available to the public concerning the person's proposed operation.

BILL 61 1974

An Act to amend The Environmental Protection Act, 1971

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. *The Environmental Protection Act, 1971*, being chapter 86, is amended by adding thereto the following section: s. 15a, enacted

15*a*. Subject to the provisions of the *Atomic Energy Control Act* (Canada) and the regulations thereunder, every person licensed under that Act for the production, application or use of atomic energy shall, where there is a possibility through accident, sabotage or an Act of God that a radioactive contaminant may be discharged into the natural environment, make available to the public any information within the knowledge of the licensee that is requested with regard to, Information to public where contamination radioactive R.S.C. 1970, c. A-19

(*a*) the consequences of a possible accident, act of sabotage or Act of God;

(*b*) the precautions that have been taken to,

(i) minimize accidents, and

(ii) keep contamination to a minimum should an accident, act of sabotage or Act of God occur;

(*c*) other operations of a similar size to the one proposed by the licensee;

(*d*) the life expectancy of the licensee's operation; or

(*e*) the total amount of radioactive material that will need to be disposed of.

2. This Act comes into force on the day it receives Royal Assent. Commencement

3. This Act may be cited as *The Environmental Protection Amendment Act, 1974*. Short title

An Act to amend
The Environmental Protection
Act, 1971

1st Reading

May 9th, 1974

2nd Reading

3rd Reading

MR. BURR

(*Private Member's Bill*)

1974

BILL 62 Government Bill

4TH SESSION, 29TH LEGISLATURE, ONTARIO
23 ELIZABETH II, 1974

An Act to provide for an Ontario Building Code

THE HON. J. T. CLEMENT
Minister of Consumer and Commercial Relations

TORONTO
PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO

Explanatory Note

The Bill provides the statutory authority for the establishment and enforcement of an Ontario Building Code to replace the existing building standards established by municipal by-law and the provincial plumbing code.

The enforcement in municipalities remains with the municipalities.

BILL 62 **1974**

An Act to provide for an Ontario Building Code

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. In this Act, Interpretation

(*a*) "architect" means a member or licensee of the Ontario Association of Architects under *The Architects Act*; R.S.O. 1970, c. 27

(*b*) "building" means a structure occupying an area greater than 150 square feet or a volume greater than 1200 cubic feet consisting of a wall, roof and floor, or any one or more of them, or a structural system serving the function thereof, including all the works, fixtures and service systems appurtenant thereto, and includes such other structures as are designated in the regulations, but does not include a structure used directly in the extraction of ore from a mine;

(*c*) "building code" means the regulations made under section 18;

(*d*) "chief official" means the chief building official appointed or constituted under section 3 or 4 and having jurisdiction for the enforcement of this Act;

(*e*) "construct" means to do anything in the erection, installation or extension or material alteration or repair of a building and includes the installation of a building unit fabricated or moved from elsewhere, and "construction" has a corresponding meaning;

(*f*) "demolition" means the doing of anything in the removal of a building or any part thereof;

(*g*) "Director" means the person appointed as Director under section 2;

(*h*) "inspector" means a building inspector appointed under section 3 or 4 and having jurisdiction for the enforcement of this Act;

(*i*) "Minister" means the Minister of Consumer and Commercial Relations;

(*j*) "municipality" means a city, town, village, township or improvement district and, in a district or regional municipality or a metropolitan municipality, an area municipality thereof;

(*k*) "professional engineer" means a member or licensee of the Association of Professional Engineers of the Province of Ontario under *The Professional Engineers Act*;

R.S.O. 1970, c. 366

(*l*) "regulations" means the regulations made under this Act;

(*m*) "unsafe", when used in respect of a building, means inadequate or faulty for the purposes for which it is or is likely to be used or otherwise unsafe.

Administration

2.—(1) The Minister is responsible for the administration of this Act.

Director of Building Code Branch

(2) There shall be a Director of the Building Code Branch who shall be appointed by the Lieutenant Governor in Council.

Enforcement by municipality

3.—(1) The council of each municipality is responsible for the enforcement of this Act in the municipality.

Chief building official and building inspectors

(2) The council of each municipality shall appoint a chief building official and such building inspectors as are necessary for the purposes of the enforcement of this Act in the areas in which the municipality has jurisdiction.

Agreements for joint enforcement

(3) The councils of two or more municipalities may enter into an agreement,

(*a*) providing for the joint enforcement of this Act within their respective municipalities;

(*b*) providing for the sharing of costs incurred in the enforcement of this Act within their respective municipalities; and

(c) providing for the appointment of a chief building official and building inspectors,

and, while the agreement is in effect, the municipalities have joint jurisdiction in the area comprising the municipalities.

County enforcement

(4) The council of a county and one or more local municipalities in the county may enter into an agreement for the enforcement by the county of this Act in such local municipalities and for charging such municipalities the whole or part of the cost thereof, and while the agreement is in effect the county may appoint a chief building official and such building inspectors as are considered necessary and has jurisdiction for the enforcement of this Act in the municipalities that are parties to the agreement.

Certificates of appointment

(5) The clerk of the municipality or county shall issue a certificate of appointment bearing his signature or a facsimile thereof to the chief official and each inspector appointed by the municipality or county who shall produce the certificate upon request in the performance of his duties.

Agreements for provincial enforcement

(6) The council of a municipality and the Crown in right of Ontario represented by the Minister may enter into an agreement providing for the enforcement of this Act in the municipality by Ontario subject to such payment in respect of the cost thereof as is provided for in the agreement, and, while the agreement is in effect, Ontario has jurisdiction for the enforcement of this Act in the municipality.

Enforcement by Ontario

4.—(1) Ontario is responsible for the enforcement of this Act in territory without municipal organization.

Appointment of building inspectors

(2) Such building inspectors as are considered necessary for the enforcement of this Act in the parts of Ontario in which Ontario has jurisdiction therefor shall be appointed under *The Public Service Act*.

R.S.O. 1970, c. 386

Director, chief building official for Ontario

(3) The Director shall be deemed to be the chief building official for the parts of Ontario in which Ontario has jurisdiction for the enforcement of this Act.

Certificates of appointment

(4) The Deputy Minister of Consumer and Commercial Relations shall issue a certificate of appointment bearing his signature or a facsimile thereof to the Director and each inspector appointed under subsection 2 who shall produce the certificate upon request in the performance of his duties.

Agreements for enforcement by municipality

(5) The council of a municipality adjacent to territory without municipal organization and the Crown in right of Ontario represented by the Minister may enter into an agreement providing for the enforcement of this Act by the municipality in such part of the territory without municipal organization and subject to such payment in respect of the cost thereof as is provided in the agreement and, while the agreement is in effect, the municipality has jurisdiction for the enforcement of this Act in the area designated in the agreement.

Building permits

5.—(1) No person shall construct or demolish a building in a municipality unless a permit therefor has been issued by the chief official.

By-laws and regulations for building permits

(2) The council of a municipality may pass by-laws and the Lieutenant Governor in Council may make regulations applicable in the area in which the municipality or Ontario, respectively, has jurisdiction for the enforcement of this Act,

(*a*) prescribing classes of permits for the purposes of subsection 1, including permits in respect of any stage of construction or demolition;

(*b*) providing for applications for permits and requiring the applications to be accompanied by such plans, specifications, documents and other information as is prescribed;

(*c*) requiring the payment of fees on applications for and issuance of permits and prescribing the amounts thereof;

(*d*) providing for the refunding of fees under such circumstances as is prescribed;

(*e*) prescribing the time within which notices required by the regulations must be given to the chief official or an inspector;

(*f*) prescribing forms respecting permits and applications for permits and providing for their use.

6.—(1) The chief official shall issue a permit except where,

Issue of permits

(*a*) the proposed building or the proposed construction or demolition will not comply with this Act or the building code or will contravene any other applicable law;

(*b*) the application therefor is incomplete or any fees due are unpaid.

(2) Drawings, plans and specifications accompanying applications for permits shall be made available to the Association of Professional Engineers of the Province of Ontario and the Ontario Association of Architects upon request for the purpose of determining whether *The Professional Engineers Act* or *The Architects Act* is being contravened. Disclosure of plans R.S.O. 1970, cc. 366, 27

(3) An applicant for a permit shall inform the chief official of any change in any information contained in the application. Notice of changes

(4) Subject to section 13, the chief official may revoke a permit, Revocation of permits

(*a*) where it was issued on mistaken or false information;

(*b*) where, after six months after its issuance, the construction or demolition in respect of which it was issued has not, in the opinion of the chief official, been seriously commenced; or

(*c*) where the construction or demolition of the building is, in the opinion of the chief official, substantially suspended or discontinued for a period of more than one year.

7. Subject to the regulations, no person shall occupy or use or permit to be occupied or used any building newly erected or installed until notice of the date of its completion is given to the chief official and, Occupation of new buildings

(*a*) an inspection is made pursuant to such notice; or

(*b*) five days have elapsed after service of the notice or after the date of completion whichever occurs last,

and subject to compliance first being made with any order made by the inspector under section 8.

8.—(1) Subject to section 10, an inspector may, for the purpose of inspecting a building or site in respect of which a permit is issued or an application for a permit is made, enter in or upon any land or premises at any time without a warrant. Powers of inspector

(2) Where an inspector finds that any provision of this Act or the building code is being contravened, he may give to the person whom he believes to be the contravener an order in writing directing compliance with such provision and may require the order to be carried out forthwith or within such time as he specifies. Order by inspector

Idem

(3) Where an inspector gives an order under this section, the order shall contain sufficient information to specify the nature of the contravention and its location.

Affixing copy of order

(4) Where an inspector gives an order under this section, he may affix a copy thereof to the site of the construction or demolition, and no person, except an inspector or the chief official, shall remove such copy unless authorized by the inspector or the chief official.

Stop work order

(5) Where an order of an inspector made under this section is not complied with within the time specified therein, or where no time is specified, within a reasonable time in the circumstances, the chief official may order that all or any part of the construction respecting the building cease and such order shall be served on such persons affected thereby as the chief official specifies and a copy thereof shall be posted on the site of the construction or demolition and no person except an inspector or the chief official shall remove such copy unless authorized by an inspector or the chief official.

Idem

(6) Where an order to cease construction is made under subsection 5, no person shall perform any act in the construction or demolition of the building in respect of which the order is made other than such work as is necessary to carry out the order of the inspector made under subsection 2.

Powers of inspectors respecting unsafe buildings

9.—(1) Subject to section 10, an inspector may enter in or upon any land or premises at any time without a warrant for the purpose of inspecting any building to determine whether such building is unsafe.

Order to remedy unsafe building

(2) Where an inspector finds that a building is unsafe, he may serve upon the assessed owner and each person apparently in possession of the building an order in writing setting out the reasons why the building is unsafe and the remedial steps that the inspector requires to be taken to render the building safe and may require the order to be carried out within such time as the inspector specifies in the order.

Prohibiting occupancy of unsafe building

(3) Where an order of an inspector under subsection 2 is not complied with within the time specified therein, or where no time is specified, within a reasonable time in the circumstances, the chief official may by order prohibit the use or occupancy of the building and such order shall be served on the assessed owner and each person apparently in possession and such other persons affected thereby as

the chief official specifies and a copy thereof shall be posted on the building, and no person except an inspector or the chief official shall remove such copy unless authorized by an inspector or the chief official.

Repairs at expense of owner

(4) Where the chief official has made an order under subsection 2 and considers it necessary for the safety of the public, he may cause the building to be renovated, repaired or demolished for the purpose of removing the unsafe condition and, where the building is in a municipality, the cost of the renovation, repair or demolition may be added by the clerk to the collector's roll and collected in like manner as municipal taxes.

Powers of inspector

10.—(1) For the purposes of an inspection under section 8 or 9, the inspector may,

(*a*) require the production of the drawings and specifications of a building or any part thereof, including any drawings prescribed by the regulations, for his inspection and may require information from any person concerning any matter related to a building or part thereof;

(*b*) be accompanied by any person who has special or expert knowledge of any matter in relation to a building or part thereof;

(*c*) alone or in conjunction with such other person or persons possessing special or expert knowledge, make such examinations, tests, inquiries, or, subject to subsections 2 and 3, take such samples or photographs as are necessary for the purposes of the inspection;

(*d*) order any person responsible for the construction to take and supply at his own expense such tests and samples as are specified in the order.

Samples

(2) Where an inspector takes a sample under clause *c* of subsection 1, the inspector shall divide the sample into two parts and deliver one part to the person from whom the sample is taken, if the person so requests at the time the sample is taken and provides the necessary facilities.

Idem

(3) Where an inspector takes a sample under clause *c* of subsection 1 and has not divided the sample into two parts, a copy of any report on the sample shall be given to the person from whom the sample was taken if the person so requests at the time the sample was taken.

Entry to dwellings

(4) An inspector shall not enter any room or place actually being used as a dwelling without the consent of the occupier except under the authority of a search warrant issued under section 16 of *The Summary Convictions Act*.

R.S.O. 1970, c. 450

Review by chief official

11.—(1) The chief official may review and amend or rescind an order made by an inspector under this Act.

Chief official may act as inspector

(2) A chief official may exercise any of the powers or perform any of the duties of an inspector under this Act.

Building Code Commission established

12.—(1) The Building Code Commission is established, composed of such number of members as is determined by the Lieutenant Governor in Council.

Appointment of members

(2) The Lieutenant Governor in Council shall appoint the members to the Commission, none of whom shall be persons in the public service of Ontario or of a municipality, and may designate one of the members as chairman and one or more of the members as vice-chairmen.

Remuneration

(3) The members of the Commission shall receive such remuneration and expenses as the Lieutenant Governor in Council may determine.

Quorum

(4) Three members of the Commission constitute a quorum.

Hearings of Commission

13.—(1) Where a dispute arises between any person and the chief official or an inspector in respect of the interpretation of the technical requirements of the building code or the sufficiency of compliance with such technical requirements, any party to the dispute may apply to the Building Code Commission for a hearing and determination of the question.

Powers of Commission

(2) Where an application is made to the Building Code Commission under subsection 1, the Commission shall appoint a time and place for the hearing and notice thereof shall be served upon the other parties to the dispute and the Commission shall hold the hearing and may, by order, determine the dispute and for such purposes may substitute its opinion for that of the inspector or chief official.

Decision final

(3) The decision of the Building Code Commission under this section is final.

Members holding hearing not to have taken part in investigation, etc.

(4) Members of the Building Code Commission holding a hearing shall not have taken part prior to the hearing in any investigation or consideration of the subject-matter of the hearing and shall not communicate directly or in-

directly in relation to the subject-matter of the hearing with any person or with any party or his representative except upon notice to and opportunity for all parties to participate, but such members may seek legal or technical advice from an adviser independent from the parties and in such case the nature of the advice should be made known to the parties in order that they may make submissions.

Evidence

(5) The findings of fact of the Commission pursuant to a hearing shall be based exclusively on evidence admissible or matters that may be noticed under sections 15 and 16 of *The Statutory Powers Procedure Act, 1971*.

1971, c. 47

Only members at hearing to participate in decisions

(6) Members of the Commission shall not participate in a decision of the Commission pursuant to a hearing unless they were present throughout the hearing and heard the evidence and argument of the parties and, except with the consent of the parties, no decision of the Commission shall be given unless all members so present participate in the decision.

Release of documentary evidence

(7) Documents and things put in evidence at the hearing shall, upon the request of the person who produced them, be released to him by the Commission within a reasonable time after the matter in issue has been finally determined.

Hearings by county court judge

14.—(1) Any person who considers himself aggrieved by an order given or decision made by an inspector or chief official under this Act or the regulations may, within twenty days after the order or decision is made, apply to the judge of the county or district court for a hearing and appeal.

Effect of application on proceeding before Commission

(2) Where an application is made under this section in respect of a matter in which a question is pending before the Building Code Commission, the proceeding before the Commission is terminated.

Powers of judge on hearing

(3) Where an application is made to a judge for a hearing under subsection 1, the judge shall appoint a time for and hold the hearing and may rescind or affirm the order or decision of the inspector or chief official or take such action as the judge considers the inspector or chief official ought to take in accordance with this Act and the regulations, and for such purposes the judge may substitute his opinion for that of the inspector or chief official.

Reference to Commission

(4) A judge may refer a question respecting the interpretation of the technical requirements of the building code or the sufficiency of compliance with such technical requirements to the Building Code Commission for a hearing and

report to the judge and the procedure on the reference shall be the same as on an application under section 13.

Extension of time for hearing

(5) A judge to whom application is made for a hearing under subsection 1 may extend the time for making the application either before or after expiration of the time fixed therein, where he is satisfied that there are *prima facie* grounds for granting relief to the applicant pursuant to a hearing and that there are reasonable grounds for applying for the extension and may give such directions as he considers proper consequent upon the extension.

Lifting of stay

(6) The judge may, upon application therefor which may be made *ex parte*, order that the order or decision appealed from be not stayed pending the outcome of the appeal but shall take effect immediately where, in his opinion, such action is necessary in the interest of public safety and would not destroy the subject-matter of the appeal.

Appeal to Supreme Court

15.—(1) Any party to the hearing before the county or district court judge under section 14 may appeal from the decision of the judge to the Supreme Court in accordance with the rules of court.

Minister entitled to be heard

(2) The Minister is entitled to be heard, by counsel or otherwise, upon the argument of an appeal under this section.

Powers of court on appeal

(3) An appeal under this section may be made on any question that is not a question of fact alone and the court may confirm or alter the decision of the judge or direct the inspector or chief official to do any act he is authorized to do under this Act or may refer the matter back to the judge for reconsideration by the judge as the court considers proper and the court may substitute its opinion for that of the inspector or chief official or the judge.

Service of notice

16. Except where otherwise provided, any notice required by this Act to be served may be served personally or by registered mail addressed to the person to whom notice is to be given or his agent for service at his latest known address and, where notice is served by registered mail, the service shall be deemed to have been made on the third day after the day of mailing unless the person to whom notice is given or his agent for service establishes that he did not, acting in good faith, through absence, accident, illness or other cause beyond his control receive the notice until a later date.

Building Materials Evaluation Commission established

17.—(1) The Building Materials Evaluation Commission is established, composed of such number of members as is determined by the Lieutenant Governor in Council.

(2) The Lieutenant Governor in Council shall appoint the members to the Commission and may designate one of the members as chairman and one of the members as vice-chairman. Appointment of members

(3) The members of the Commission shall receive such remuneration and expenses as the Lieutenant Governor in Council may determine. Remuneration

(4) The Building Materials Evaluation Commission may, Powers and duties

(*a*) examine and research or cause examination and research into new materials, techniques and building design for construction;

(*b*) upon application therefor, authorize the use of any innovative material, technique or building design in respect of any specified building or part thereof and the use of such material, technique or design within the authority given and the terms and conditions specified therein shall be deemed not to be in contravention of the building code; and

(*c*) make recommendations to the Minister respecting changes in this Act or the regulations.

18.—(1) The Lieutenant Governor in Council may make such regulations as are considered advisable or necessary for the purpose of establishing a building code for Ontario governing standards for the construction and demolition of buildings, including but without limiting the generality of the foregoing, Regulations

(*a*) governing the manner of construction and types and quality of materials used therein;

(*b*) governing the design of buildings and the use to which they may be put;

(*c*) adopting by reference, in whole or in part, with such changes as the Lieutenant Governor in Council considers necessary, any code or standard and requiring compliance with any code or standard that is so adopted;

(*d*) requiring the design, construction or demolition of any class of building to be under the supervision of an architect or professional engineer;

(*e*) designating structures for the purposes of clause *b* of section 1;

(*f*) designating organizations to test prefabricated building units to the standards prescribed by the building code and providing for the placing of the label of such organization on such units that conform to the standards;

(*g*) requiring the approval of an inspector in respect of any method, matter or thing;

(*h*) requiring the posting on buildings or sites of construction or demolition of such documents or information as is prescribed;

(*i*) requiring such documents, information, records, drawings or specifications as are prescribed to be kept on the site of construction or demolition;

(*j*) requiring notice to be given to the chief official or an inspector respecting any matter in the course of construction or demolition;

(*k*) requiring notice to be given to the chief official respecting the change in prescribed classes of use made of a building;

(*l*) requiring chief officials to transmit to the Director such returns and reports as are prescribed;

(*m*) prescribing conditions under which a building or any part of a building may be occupied;

(*n*) exempting any building or class thereof from compliance with this Act and the regulations or any provision thereof;

(*o*) requiring the payment of fees in respect of applications to the Building Materials Evaluation Commission and prescribing the amounts thereof;

(*p*) prescribing procedures of the Building Code Commission and the Building Materials Evaluation Commission;

(*q*) prescribing forms and providing for their use.

Limitation of application

(2) Any regulation made under this section may be limited in its application territorially or to any class of building, construction or demolition.

Inquiries

19.—(1) Where it appears to the Minister that there is or may be a failure in construction or demolition standards

or in the enforcement of this Act or the building code, the Minister may designate a person to conduct an inquiry into such failure.

(2) For the purposes of an inquiry under subsection 1, the person conducting the inquiry has the powers of a commission under Part II of *The Public Inquiries Act, 1971*, which Part applies to such investigation as if it were an inquiry under that Act. Powers on inquiry 1971, c. 49

20.—(1) No action or other proceeding for damages lies or shall be instituted against the Director or any member of the Building Code Commission or Building Materials Evaluation Commission or anyone acting under the authority of the Director, Building Code Commission or Building Materials Evaluation Commission or any person conducting an inquiry under section 19 for any act done in good faith in the execution or intended execution of his duty or for any alleged neglect or default in the execution in good faith of his duty. Immunity from actions

(2) No action or other proceedings for damages lies or shall be instituted against an inspector or chief official for an act or omission by him in good faith in the execution or intended execution of any power or duty under this Act or the regulations. Idem

(3) Subsections 1 and 2 do not relieve the Crown or a municipal corporation of liability in respect of a tort committed by an inspector or a chief official to which either would otherwise be subject and the Crown or municipal corporation is liable for any such tort as if subsections 1 and 2 were not enacted. Liability of Crown and municipality

21.—(1) No person shall hinder, obstruct, molest or interfere with or attempt to hinder, obstruct, molest or interfere with a chief official or inspector in the exercise of a power or the performance of a duty under this Act. Obstruction of inspector

(2) Every person shall furnish all necessary means in his power to facilitate any entry, inspection, examination, testing or inquiry by an inspector or chief official in the exercise of his powers or duties under this Act. Assistance of inspector

(3) No person shall neglect or refuse to produce any drawings and specifications as required by an inspector under clauses *a* and *c* of subsection 1 of section 10. Refusal to produce

(4) No person shall furnish an inspector or chief official with false information or neglect or refuse to furnish False information, etc.

information required by an inspector or chief official in the exercise of his duties under this Act.

Information confidential

22.—(1) An inspector, a person who accompanies an inspector, or a person who makes an examination, test, or inquiry, or takes samples shall not publish, disclose or communicate to any person any information, material, statement or result of any test, acquired, furnished, obtained, made or received under the powers conferred under this Act and the regulations except for the purposes of carrying out his duties under this Act or the regulations.

Idem

(2) No report of an inspector, a person who, at the request of an inspector, accompanies an inspector, or a person who, at the request of an inspector, makes an examination, test, inquiry or takes samples shall be communicated, disclosed or published to any person except for the purposes of carrying out his duties under this Act or the regulations.

Compellability in civil suit

(3) Neither an inspector nor a person who, at the request of an inspector, accompanies an inspector or a person who makes an examination, test, inquiry or takes samples at the request of an inspector is a compellable witness in a civil suit or proceeding respecting any information, material, statement or test acquired, furnished, obtained, made or received under the powers conferred under this Act.

Power of Director to disclose

(4) The Director may communicate or allow to be communicated, disclosed or published information, material, statements, or the result of a test acquired, furnished, obtained, made or received under the powers conferred by this Act and the regulations.

Informant confidential

(5) No person to whom information is communicated under this section or sections 10 and 21 shall divulge the name of the informant to any person except for the purposes of this Act.

Offences

23.—(1) Every person who,

(*a*) knowingly furnishes false information in any application under this Act or in any statement or return required to be furnished under this Act or the regulations;

(*b*) fails to comply with any order, direction or other requirement made under this Act; or

(*c*) contravenes any provision of this Act or the regulations,

and every director or officer of a corporation who knowingly concurs in such furnishing, failure or contravention is guilty of an offence and on summary conviction is liable to a fine of not more than $2,000 or to imprisonment for a term of not more than one year, or to both.

Corporations

(2) Where a corporation is convicted of an offence under subsection 1, the maximum penalty that may be imposed upon the corporation is $10,000 and not as provided therein.

Continuing offence

(3) Every person who fails to comply with an order made by a chief official under subsection 5 of section 8 or subsection 3 of section 9 is guilty of an offence and on summary conviction, in addition to the penalties mentioned in subsections 1 and 2, is liable to a fine of not more than $100 per day for every day upon which the offence continued after such order was given.

Proof of order

24.—(1) In any prosecution for an offence under this Act, a copy of a direction or order purporting to have been made under this Act or the regulations and purporting to have been signed by the person authorized by this Act to make the direction or order is *prima facie* proof of the direction or order without proof of the signature or authority of the person by whom it purports to be signed.

Proof of matters of record

(2) A statement as to any matter of record in an office of the chief official purporting to be certified by the chief official is, without proof of the office or signature of the chief official, receivable in evidence as *prima facie* proof of the facts stated therein for all purposes in any action, proceeding or prosecution.

Restraining order

25.—(1) Where it appears to a chief official that any person does not comply with any provision of this Act, the regulations or an order made under this Act, notwithstanding the imposition of any penalty in respect of such non-compliance and in addition to any other rights he may have, the chief official may apply to a judge of the High Court for an order directing such person to comply with such provision, and upon the application, the judge may make such order or such other order as the judge thinks fit.

Appeal

(2) An appeal lies to the Supreme Court from an order made under subsection 1.

R.S.O. 1970, c. 349, s. 38 (1), pars. 1-3, 7, 8, 12, 14-16, 18-20, 24-26, repealed

26. Paragraphs 1, 2, 3, 7, 8, 12, 14, 15, 16, 18, 19, 20, 24, 25 and 26 of subsection 1 of section 38 of *The Planning Act* are repealed.

R.S.O. 1970, c. 284, s. 354 (1), par. 81, repealed

27.—(1) Paragraph 81 of subsection 1 of section 354 of *The Municipal Act* is repealed.

R.S.O. 1970, c. 284, s. 363, par. 2, repealed

(2) Paragraph 2 of section 363 of *The Municipal Act* is repealed.

Continuation of by-laws

28. Notwithstanding section 26, the by-laws made under the provisions referred to therein continue in force in lieu of the building code in respect of construction,

(*a*) for which a permit has been issued before this Act comes into force;

(*b*) for which the working drawings, plans and specifications are substantially completed before this Act come into force and for which an application for a permit under a by-law made under section 38 of *The Planning Act* is made within three months after that date, on condition that the construction is commenced within six months after the permit is issued.

R.S.O. 1970, c. 349

Commencement

29. This Act comes into force on a day to be named by proclamation of the Lieutenant Governor.

Short title

30. This Act may be cited as *The Building Code Act, 1974*.

An Act to provide for
an Ontario Building Code

1st Reading

May 10th, 1974

2nd Reading

3rd Reading

THE HON. J. T. CLEMENT
Minister of Consumer and
Commercial Relations

(*Government Bill*)

1974

BILL 62 **Government Bill**

4TH SESSION, 29TH LEGISLATURE, ONTARIO
23 ELIZABETH II, 1974

An Act to provide for an Ontario Building Code

THE HON. J. T. CLEMENT
Minister of Consumer and Commercial Relations

(Reprinted as amended by the Committee of the Whole House)

TORONTO
PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO

Explanatory Note

The Bill provides the statutory authority for the establishment and enforcement of an Ontario Building Code to replace the existing building standards established by municipal by-law and the provincial plumbing code.

The enforcement in municipalities remains with the municipalities.

BILL 62 **1974**

An Act to provide for an Ontario Building Code

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. In this Act, Interpretation

(*a*) "architect" means a member or licensee of the Ontario Association of Architects under *The Architects Act*; R.S.O. 1970, c. 27

(*b*) "building" means a structure occupying an area greater than 100 square feet consisting of a wall, roof and floor, or any one or more of them, or a structural system serving the function thereof, including all the works, fixtures and service systems appurtenant thereto, and includes such other structures as are designated in the regulations, but does not include a structure used directly in the extraction of ore from a mine;

(*c*) "building code" means the regulations made under section 18;

(*d*) "chief official" means the chief building official appointed or constituted under section 3 or 4 and having jurisdiction for the enforcement of this Act;

(*e*) "construct" means to do anything in the erection, installation or extension or material alteration or repair of a building and includes the installation of a building unit fabricated or moved from elsewhere, and "construction" has a corresponding meaning;

(*f*) "demolition" means the doing of anything in the removal of a building or any part thereof;

(*g*) "Director" means the person appointed as Director under section 2;

(*h*) "inspector" means an inspector appointed under section 3 or 4 and having jurisdiction for the enforcement of this Act;

(*i*) "Minister" means the Minister of Consumer and Commercial Relations;

(*j*) "municipality" means a city, town, village, township or improvement district or any other municipality having the power to make by-laws under section 38 of *The Planning Act*;

R.S.O. 1970, c. 349

(*k*) "professional engineer" means a member or licensee of the Association of Professional Engineers of the Province of Ontario under *The Professional Engineers Act*;

R.S.O. 1970, c. 366

(*l*) "regulations" means the regulations made under this Act;

(*m*) "unsafe", when used in respect of a building, means structurally inadequate or faulty for the purposes for which it is or is likely to be used or otherwise unsafe.

Administration

2.—(1) The Minister is responsible for the administration of this Act.

Director of Building Code Branch

(2) There shall be a Director of the Building Code Branch who shall be appointed by the Lieutenant Governor in Council.

Enforcement by municipality

3.—(1) The council of each municipality is responsible for the enforcement of this Act in the municipality.

Chief building official and inspectors

(2) The council of each municipality shall appoint a chief building official and such inspectors as are necessary for the purposes of the enforcement of this Act in the areas in which the municipality has jurisdiction.

Agreements for joint enforcement

(3) The councils of two or more municipalities may enter into an agreement,

(*a*) providing for the joint enforcement of this Act within their respective municipalities;

(*b*) providing for the sharing of costs incurred in the enforcement of this Act within their respective municipalities; and

(*c*) providing for the appointment of a chief building official and inspectors,

and, while the agreement is in effect, the municipalities have joint jurisdiction in the area comprising the municipalities.

County enforcement

(4) The council of a county and one or more local municipalities in the county may enter into an agreement for the enforcement by the county of this Act in such local municipalities and for charging such municipalities the whole or part of the cost thereof, and while the agreement is in effect the county may appoint a chief building official and such inspectors as are considered necessary and has jurisdiction for the enforcement of this Act in the municipalities that are parties to the agreement.

Certificates of appointment

(5) The clerk of the municipality or county shall issue a certificate of appointment bearing his signature or a facsimile thereof to the chief official and each inspector appointed by the municipality or county who shall produce the certificate upon request in the performance of his duties.

Agreements for provincial enforcement

(6) The council of a municipality and the Crown in right of Ontario represented by the Minister may enter into an agreement providing for the enforcement of this Act in the municipality by Ontario subject to such payment in respect of the cost thereof as is provided for in the agreement, and, while the agreement is in effect, Ontario has jurisdiction for the enforcement of this Act in the municipality.

Enforcement by Ontario

4.—(1) Ontario is responsible for the enforcement of this Act in territory without municipal organization.

Appointment of inspectors

(2) Such inspectors as are considered necessary for the enforcement of this Act in the parts of Ontario in which Ontario has jurisdiction therefor shall be appointed under *The Public Service Act*.

R.S.O. 1970, c. 386

Director, chief building official for Ontario

(3) The Director shall be deemed to be the chief building official for the parts of Ontario in which Ontario has jurisdiction for the enforcement of this Act.

Certificates of appointment

(4) The Deputy Minister of Consumer and Commercial Relations shall issue a certificate of appointment bearing his signature or a facsimile thereof to the Director and each inspector appointed under subsection 2 who shall produce the certificate upon request in the performance of his duties.

Agreements for enforcement by municipality

(5) The council of a municipality adjacent to territory without municipal organization and the Crown in right of Ontario represented by the Minister may enter into an agreement providing for the enforcement of this Act by the municipality in such part of the territory without municipal organization and subject to such payment in respect of the cost thereof as is provided in the agreement and, while the agreement is in effect, the municipality has jurisdiction for the enforcement of this Act in the area designated in the agreement.

Building permits

5.—(1) No person shall construct or demolish a building in a municipality unless a permit therefor has been issued by the chief official.

By-laws and regulations for building permits

(2) The council of a municipality may pass by-laws and the Lieutenant Governor in Council may make regulations applicable in the area in which the municipality or Ontario, respectively, has jurisdiction for the enforcement of this Act,

(*a*) prescribing classes of permits for the purposes of subsection 1, including permits in respect of any stage of construction or demolition;

(*b*) providing for applications for permits and requiring the applications to be accompanied by such plans, specifications, documents and other information as is prescribed;

(*c*) requiring the payment of fees on applications for and issuance of permits and prescribing the amounts thereof;

(*d*) providing for the refunding of fees under such circumstances as are prescribed;

(*e*) prescribing the time within which notices required by the regulations must be given to the chief official or an inspector;

(*f*) prescribing forms respecting permits and applications for permits and providing for their use.

6.—(1) The chief official shall issue a permit except where,

Issue of permits

(*a*) the proposed building or the proposed construction or demolition will not comply with this Act or the building code or will contravene any other applicable law; or

(*b*) the application therefor is incomplete or any fees due are unpaid.

(2) Drawings, plans and specifications accompanying applications for permits shall be made available to the Association of Professional Engineers of the Province of Ontario and the Ontario Association of Architects upon request for the purpose of determining whether *The Professional Engineers Act* or *The Architects Act* is being contravened. Disclosure of plans R.S.O. 1970, cc. 366, 27

(3) An applicant for a permit shall inform the chief official of any change in any information contained in the application. Notice of changes

(4) Subject to section 13, the chief official may revoke a permit, Revocation of permits

(*a*) where it was issued on mistaken or false information;

(*b*) where, after six months after its issuance, the construction or demolition in respect of which it was issued has not, in the opinion of the chief official, been seriously commenced; or

(*c*) where the construction or demolition of the building is, in the opinion of the chief official, substantially suspended or discontinued for a period of more than one year.

7. Subject to the regulations, no person shall occupy or use or permit to be occupied or used any building newly erected or installed until notice of the date of its completion is given to the chief official and, Occupation of new buildings

(*a*) an inspection is made pursuant to such notice; or

(*b*) ten days have elapsed after service of the notice or after the date of completion whichever occurs last,

and subject to compliance first being made with any order made by the inspector under section 8.

8.—(1) Subject to section 10, an inspector may, for the purpose of inspecting a building or site in respect of which a permit is issued or an application for a permit is made, enter in or upon any land or premises at any time without a warrant. Inspection

(2) Where an inspector finds that any provision of this Act or the building code is being contravened, he may give to the person whom he believes to be the contravener an order in writing directing compliance with such provision and may require the order to be carried out forthwith or within such time as he specifies. Order by inspector

Idem

(3) Where an inspector gives an order under this section, the order shall contain sufficient information to specify the nature of the contravention and its location.

Affixing copy of order

(4) Where an inspector gives an order under this section, he may affix a copy thereof to the site of the construction or demolition, and no person, except an inspector or the chief official, shall remove such copy unless authorized by the inspector or the chief official.

Stop work order

(5) Where an order of an inspector made under this section is not complied with within the time specified therein, or where no time is specified, within a reasonable time in the circumstances, the chief official may order that all or any part of the construction or demolition respecting the building cease and such order shall be served on such persons affected thereby as the chief official specifies and a copy thereof shall be posted on the site of the construction or demolition and no person except an inspector or the chief official shall remove such copy unless authorized by an inspector or the chief official.

Idem

(6) Where an order to cease construction or demolition is made under subsection 5, no person shall perform any act in the construction or demolition of the building in respect of which the order is made other than such work as is necessary to carry out the order of the inspector made under subsection 2.

Powers of inspectors respecting unsafe buildings

9.—(1) Subject to section 10, an inspector may enter in or upon any land or premises at any time without a warrant for the purpose of inspecting any building to determine whether such building is unsafe.

Order to remedy unsafe building

(2) Where an inspector finds that a building is unsafe, he may serve upon the assessed owner and each person apparently in possession of the building an order in writing setting out the reasons why the building is unsafe and the remedial steps that the inspector requires to be taken to render the building safe and may require the order to be carried out within such time as the inspector specifies in the order.

Prohibiting occupancy of unsafe building

(3) Where an order of an inspector under subsection 2 is not complied with within the time specified therein, or where no time is specified, within a reasonable time in the circumstances, the chief official may by order prohibit the use or occupancy of the building and such order shall be served on the assessed owner and each person apparently in possession and such other persons affected thereby as

the chief official specifies and a copy thereof shall be posted on the building, and no person except an inspector or the chief official shall remove such copy unless authorized by an inspector or the chief official.

(4) Where the chief official has made an order under subsection 2 and considers it necessary for the safety of the public, he may cause the building to be renovated, repaired or demolished for the purpose of removing the unsafe condition and, where the building is in a municipality, the cost of the renovation, repair or demolition may be added by the clerk to the collector's roll and collected in like manner as municipal taxes. Repairs at expense of owner

10.—(1) For the purposes of an inspection under section 8 or 9, the inspector may, Powers of Inspector

(*a*) require the production of the drawings and specifications of a building or any part thereof, including any drawings prescribed by the regulations, for his inspection and may require information from any person concerning any matter related to a building or part thereof;

(*b*) be accompanied by any person who has special or expert knowledge of any matter in relation to a building or part thereof;

(*c*) alone or in conjunction with such other person or persons possessing special or expert knowledge, make such examinations, tests, inquiries, or, subject to subsections 2 and 3, take such samples or photographs as are necessary for the purposes of the inspection;

(*d*) order any person responsible for the construction to take and supply at his own expense such tests and samples as are specified in the order.

(2) Where an inspector takes a sample under clause *c* of subsection 1, the inspector shall divide the sample into two parts and deliver one part to the person from whom the sample is taken, if the person so requests at the time the sample is taken and provides the necessary facilities. Samples

(3) Where an inspector takes a sample under clause *c* of subsection 1 and has not divided the sample into two parts, a copy of any report on the sample shall be given to the person from whom the sample was taken. Idem

Entry to dwellings

(4) An inspector shall not enter any room or place actually being used as a dwelling without the consent of the occupier except under the authority of a search warrant issued under section 16 of *The Summary Convictions Act*.

R.S.O. 1970, c. 450

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(2) The Lieutenant Governor in Council shall appoint the members to the Commission, none of whom shall be persons in the public service of Ontario or of a municipality, and may designate one of the members as chairman and one or more of the members as vice-chairmen.

Remuneration

(3) The members of the Commission shall receive such remuneration and expenses as the Lieutenant Governor in Council may determine.

Quorum

(4) Three members of the Commission constitute a quorum.

Hearings of Commission

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Powers of Commission

(2) Where an application is made to the Building Code Commission under subsection 1, the Commission shall appoint a time and place for the hearing and notice thereof shall be served upon the other parties to the dispute and the Commission shall hold the hearing and may, by order, determine the dispute and for such purposes may substitute its opinion for that of the inspector or chief official.

Decision final

(3) The decision of the Building Code Commission under this section is final.

Members holding hearing not to have taken part in investigation, etc.

(4) Members of the Building Code Commission holding a hearing shall not have taken part prior to the hearing in any investigation or consideration of the subject-matter of the hearing and shall not communicate directly or in-

directly in relation to the subject-matter of the hearing with any person or with any party or his representative except upon notice to and opportunity for all parties to participate, but such members may seek legal or technical advice from an adviser independent from the parties and in such case the nature of the advice should be made known to the parties in order that they may make submissions.

Evidence

(5) The findings of fact of the Commission pursuant to a hearing shall be based exclusively on evidence admissible or matters that may be noticed under sections 15 and 16 of *The Statutory Powers Procedure Act, 1971*.

1971, c. 47

Only members at hearing to participate in decisions

(6) Members of the Commission shall not participate in a decision of the Commission pursuant to a hearing unless they were present throughout the hearing and heard the evidence and argument of the parties and, except with the consent of the parties, no decision of the Commission shall be given unless all members so present participate in the decision.

Release of documentary evidence

(7) Documents and things put in evidence at the hearing shall, upon the request of the person who produced them, be released to him by the Commission within a reasonable time after the matter in issue has been finally determined.

Hearings by county court judge

14.—(1) Any person who considers himself aggrieved by an order given or decision made by an inspector or chief official under this Act or the regulations may, within twenty days after the order or decision is made, apply to the judge of the county or district court for a hearing and appeal.

Effect of application on proceeding before Commission

(2) Where an application is made under this section in respect of a matter in which a question is pending before the Building Code Commission, the proceeding before the Commission is terminated.

Powers of judge on hearing

(3) Where an application is made to a judge for a hearing under subsection 1, the judge shall appoint a time for and hold the hearing and may rescind or affirm the order or decision of the inspector or chief official or take such action as the judge considers the inspector or chief official ought to take in accordance with this Act and the regulations, and for such purposes the judge may substitute his opinion for that of the inspector or chief official.

Reference to Commission

(4) A judge may refer a question respecting the interpretation of the technical requirements of the building code or the sufficiency of compliance with such technical requirements to the Building Code Commission for a hearing and

report to the judge and the procedure on the reference shall be the same as on an application under section 13.

Extension of time for hearing

(5) A judge to whom application is made for a hearing under subsection 1 may extend the time for making the application either before or after expiration of the time fixed therein, where he is satisfied that there are *prima facie* grounds for granting relief to the applicant pursuant to a hearing and that there are reasonable grounds for applying for the extension and may give such directions as he considers proper consequent upon the extension.

Lifting of stay

(6) The judge may, upon application therefor which may be made *ex parte*, order that the order or decision appealed from be not stayed pending the outcome of the appeal but shall take effect immediately where, in his opinion, such action is necessary in the interest of public safety and would not destroy the subject-matter of the appeal.

Appeal to Supreme Court

15.—(1) Any party to the hearing before the county or district court judge under section 14 may appeal from the decision of the judge to the Supreme Court in accordance with the rules of court.

Minister entitled to be heard

(2) The Minister is entitled to be heard, by counsel or otherwise, upon the argument of an appeal under this section.

Powers of court on appeal

(3) An appeal under this section may be made on any question that is not a question of fact alone and the court may confirm or alter the decision of the judge or direct the inspector or chief official to do any act he is authorized to do under this Act or may refer the matter back to the judge for reconsideration by the judge as the court considers proper and the court may substitute its opinion for that of the inspector or chief official or the judge.

Service of notice

16. Except where otherwise provided, any notice required by this Act to be served may be served personally or by registered mail addressed to the person to whom notice is to be given or his agent for service at his latest known address and, where notice is served by registered mail, the service shall be deemed to have been made on the third day after the day of mailing unless the person to whom notice is given or his agent for service establishes that he did not, acting in good faith, through absence, accident, illness or other cause beyond his control receive the notice until a later date.

Building Materials Evaluation Commission established

17.—(1) The Building Materials Evaluation Commission is established, composed of such number of members as is determined by the Lieutenant Governor in Council.

(2) The Lieutenant Governor in Council shall appoint the members to the Commission and may designate one of the members as chairman and one of the members as vice-chairman. Appointment of members

(3) The members of the Commission shall receive such remuneration and expenses as the Lieutenant Governor in Council may determine. Remuneration

(4) The Building Materials Evaluation Commission may: Powers and duties

(*a*) examine and research or cause examination and research into materials, techniques and building design for construction;

(*b*) upon application therefor, authorize the use of any innovative material, technique or building design in respect of any specified building or part thereof and the use of such material, technique or design within the authority given and the terms and conditions specified therein shall be deemed not to be in contravention of the building code; and

(*c*) make recommendations to the Minister respecting changes in this Act or the regulations.

18.—(1) The Lieutenant Governor in Council may make such regulations as are considered advisable or necessary for the purpose of establishing a building code for Ontario governing standards for the construction and demolition of buildings, including but without limiting the generality of the foregoing, Regulations

(*a*) governing the manner of construction and types and quality of materials used therein;

(*b*) governing the design of buildings and the use to which they may be put;

(*c*) adopting by reference, in whole or in part, with such changes as the Lieutenant Governor in Council considers necessary, any code or standard and requiring compliance with any code or standard that is so adopted;

(*d*) requiring any part of the design, construction or demolition of a building to be under the field review of an architect or professional engineer;

(*e*) designating structures for the purposes of clause *b* of section 1;

(*f*) designating organizations to test prefabricated building units to the standards prescribed by the building code and providing for the placing of the label of such organization on such units that conform to the standards;

(*g*) requiring the approval of an inspector in respect of any method, matter or thing;

(*h*) requiring the posting on buildings or sites of construction or demolition of such documents or information as is prescribed;

(*i*) requiring such documents, information, records, drawings or specifications as are prescribed to be kept on the site of construction or demolition;

(*j*) requiring notice to be given to the chief official or an inspector respecting any matter in the course of construction or demolition;

(*k*) requiring notice to be given to the chief official respecting the change in prescribed classes of use made of a building;

(*l*) requiring chief officials to transmit to the Director such returns and reports as are prescribed;

(*m*) prescribing conditions under which a building or any part of a building may be occupied;

(*n*) exempting any building or class thereof from compliance with this Act and the regulations or any provision thereof;

(*o*) requiring the payment of fees in respect of applications to the Building Materials Evaluation Commission and prescribing the amounts thereof;

(*p*) prescribing procedures of the Building Code Commission and the Building Materials Evaluation Commission;

(*q*) prescribing forms and providing for their use.

Limitation of application

(2) Any regulation made under this section may be limited in its application territorially or to any class of building, construction or demolition.

Inquiries

19.—(1) Where it appears to the Minister that there is or may be a failure in construction or demolition standards

or in the enforcement of this Act or the building code, the Minister may designate a person to conduct an inquiry into such failure.

(2) For the purposes of an inquiry under subsection 1, the person conducting the inquiry has the powers of a commission under Part II of *The Public Inquiries Act, 1971*, which Part applies to such investigation as if it were an inquiry under that Act. Powers on inquiry 1971, c. 49

20.—(1) No action or other proceeding for damages lies or shall be instituted against the Director or any member of the Building Code Commission or Building Materials Evaluation Commission or anyone acting under the authority of the Director, Building Code Commission or Building Materials Evaluation Commission or any person conducting an inquiry under section 19 for any act done in good faith in the execution or intended execution of his duty or for any alleged neglect or default in the execution in good faith of his duty. Immunity from actions

(2) No action or other proceedings for damages lies or shall be instituted against an inspector or chief official for an act or omission by him in good faith in the execution or intended execution of any power or duty under this Act or the regulations. Idem

(3) Subsections 1 and 2 do not relieve the Crown or a municipal corporation of liability in respect of a tort committed by an inspector or a chief official to which either would otherwise be subject and the Crown or municipal corporation is liable for any such tort as if subsections 1 and 2 were not enacted. Liability of Crown and municipality

21.—(1) No person shall hinder, obstruct, molest or interfere with or attempt to hinder, obstruct, molest or interfere with a chief official or inspector in the exercise of a power or the performance of a duty under this Act. Obstruction of inspector

(2) Every person shall furnish all necessary means in his power to facilitate any entry, inspection, examination, testing or inquiry by an inspector or chief official in the exercise of his powers or duties under this Act. Assistance of inspector

(3) No person shall neglect or refuse to produce any drawings and specifications as required by an inspector under clauses *a* and *c* of subsection 1 of section 10. Refusal to produce

(4) No person shall furnish an inspector or chief official with false information or neglect or refuse to furnish False information, etc.

information required by an inspector or chief official in the exercise of his duties under this Act.

Information confidential

22. (1) A chief official, inspector, person who, at the request of an inspector, accompanies an inspector, or person who, at the request of an inspector, makes an examination, test, or inquiry, or takes samples shall not publish, disclose or communicate to any person any information, material, statement or result of any test, acquired, furnished, obtained, made or received under the powers conferred under this Act and the regulations except for the purposes of carrying out his duties under this Act or the regulations.

Idem

(2) No report of a chief official, inspector, person who, at the request of an inspector, accompanies an inspector, or person who, at the request of an inspector, makes an examination, test, inquiry or takes samples shall be communicated, disclosed or published to any person except for the purposes of carrying out his duties under this Act or the regulations.

Compellability in civil suit

(3) No chief official, inspector, person who, at the request of an inspector, accompanies an inspector or person who makes an examination, test, inquiry or takes samples at the request of an inspector is a compellable witness in a civil suit or proceeding respecting any information, material, statement or test acquired, furnished, obtained, made or received under the powers conferred under this Act.

Power of Director to disclose

(4) The Director may communicate or allow to be communicated, disclosed or published information, material, statements, or the result of a test acquired, furnished, obtained, made or received under the powers conferred by this Act and the regulations.

Informant confidential

(5) No person to whom information is communicated under this section or sections 10 and 21 shall divulge the name of the informant to any person except for the purposes of this Act.

Offences

23.—(1) Every person who,

(*a*) knowingly furnishes false information in any application under this Act or in any statement or return required to be furnished under this Act or the regulations;

(*b*) fails to comply with any order, direction or other requirement made under this Act; or

(*c*) contravenes any provision of this Act or the regulations,

and every director or officer of a corporation who knowingly concurs in such furnishing, failure or contravention is guilty of an offence and on summary conviction is liable to a fine of not more than $2,000 or to imprisonment for a term of not more than one year, or to both.

Corporations

(2) Where a corporation is convicted of an offence under subsection 1, the maximum penalty that may be imposed upon the corporation is $10,000 and not as provided therein.

Continuing offence

(3) Every person who fails to comply with an order made by a chief official under subsection 5 of section 8 or subsection 3 of section 9 is guilty of an offence and on summary conviction, in addition to the penalties mentioned in subsections 1 and 2, is liable to a fine of not more than $100 per day for every day upon which the offence continued after such order was given.

Proof of order

24.—(1) In any prosecution for an offence under this Act, a copy of a direction or order purporting to have been made under this Act or the regulations and purporting to have been signed by the person authorized by this Act to make the direction or order is *prima facie* proof of the direction or order without proof of the signature or authority of the person by whom it purports to be signed.

Proof of matters of record

(2) A statement as to any matter of record in an office of the chief official purporting to be certified by the chief official is, without proof of the office or signature of the chief official, receivable in evidence as *prima facie* proof of the facts stated therein for all purposes in any action, proceeding or prosecution.

Restraining order

25.—(1) Where it appears to a chief official that any person does not comply with any provision of this Act, the regulations or an order made under this Act, notwithstanding the imposition of any penalty in respect of such non-compliance and in addition to any other rights he may have, the chief official may apply to a judge of the High Court for an order directing such person to comply with such provision, and upon the application, the judge may make such order or such other order as the judge thinks fit.

Appeal

(2) An appeal lies to the Supreme Court from an order made under subsection 1.

Municipal by-laws superseded

R.S.O. 1970, c. 349

26. Section 38 of *The Planning Act* is subject to this Act and the building code made under section 18 of this Act supersedes all municipal by-laws respecting the construction or demolition of buildings as defined in section 1.

Continuation of by-laws

27. Notwithstanding section 26, the by-laws made under the provisions referred to therein continue in force in lieu of the building code in respect of construction,

(*a*) for which a permit has been issued before this Act comes into force; or

(*b*) for which the working drawings, plans and specifications are substantially completed before this Act comes into force and for which an application for a permit under a by-law made under section 38 of *The Planning Act* is made within three months after that date,

on condition that the construction is commenced within six months after the permit is issued.

Commencement

28. This Act comes into force on a day to be named by proclamation of the Lieutenant Governor.

Short title

29. This Act may be cited as *The Building Code Act, 1974*.

An Act to provide for
an Ontario Building Code

1st Reading

May 10th, 1974

2nd Reading

November 14th, 1974

3rd Reading

THE HON. J. T. CLEMENT
Minister of Consumer and
Commercial Relations

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*(Reprinted as amended by the
Committee of the Whole House)*

1974

BILL 62

4TH SESSION, 29TH LEGISLATURE, ONTARIO
23 ELIZABETH II, 1974

An Act to provide for an Ontario Building Code

THE HON. J. T. CLEMENT
Minister of Consumer and Commercial Relations

TORONTO
PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO

BILL 62 **1974**

An Act to provide for an Ontario Building Code

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. In this Act, Interpretation

(*a*) "architect" means a member or licensee of the Ontario Association of Architects under *The Architects Act*; R.S.O. 1970, c. 27

(*b*) "building" means a structure occupying an area greater than 100 square feet consisting of a wall, roof and floor, or any one or more of them, or a structural system serving the function thereof, including all the works, fixtures and service systems appurtenant thereto, and includes such other structures as are designated in the regulations, but does not include a structure used directly in the extraction of ore from a mine;

(*c*) "building code" means the regulations made under section 18;

(*d*) "chief official" means the chief building official appointed or constituted under section 3 or 4 and having jurisdiction for the enforcement of this Act;

(*e*) "construct" means to do anything in the erection, installation or extension or material alteration or repair of a building and includes the installation of a building unit fabricated or moved from elsewhere, and "construction" has a corresponding meaning;

(*f*) "demolition" means the doing of anything in the removal of a building or any part thereof;

(*g*) "Director" means the person appointed as Director under section 2;

(*h*) "inspector" means an inspector appointed under section 3 or 4 and having jurisdiction for the enforcement of this Act;

(*i*) "Minister" means the Minister of Consumer and Commercial Relations;

(*j*) "municipality" means a city, town, village, township or improvement district or any other municipality having the power to make by-laws under section 38 of *The Planning Act*;

R.S.O. 1970, c. 349

(*k*) "professional engineer" means a member or licensee of the Association of Professional Engineers of the Province of Ontario under *The Professional Engineers Act*;

R.S.O. 1970, c. 366

(*l*) "regulations" means the regulations made under this Act;

(*m*) "unsafe", when used in respect of a building, means structurally inadequate or faulty for the purposes for which it is or is likely to be used or otherwise unsafe.

Administration

2.—(1) The Minister is responsible for the administration of this Act.

Director of Building Code Branch

(2) There shall be a Director of the Building Code Branch who shall be appointed by the Lieutenant Governor in Council.

Enforcement by municipality

3.—(1) The council of each municipality is responsible for the enforcement of this Act in the municipality.

Chief building official and inspectors

(2) The council of each municipality shall appoint a chief building official and such inspectors as are necessary for the purposes of the enforcement of this Act in the areas in which the municipality has jurisdiction.

Agreements for joint enforcement

(3) The councils of two or more municipalities may enter into an agreement,

(*a*) providing for the joint enforcement of this Act within their respective municipalities;

(*b*) providing for the sharing of costs incurred in the enforcement of this Act within their respective municipalities; and

(*c*) providing for the appointment of a chief building official and inspectors,

and, while the agreement is in effect, the municipalities have joint jurisdiction in the area comprising the municipalities.

County enforcement

(4) The council of a county and one or more local municipalities in the county may enter into an agreement for the enforcement by the county of this Act in such local municipalities and for charging such municipalities the whole or part of the cost thereof, and while the agreement is in effect the county may appoint a chief building official and such inspectors as are considered necessary and has jurisdiction for the enforcement of this Act in the municipalities that are parties to the agreement.

Certificates of appointment

(5) The clerk of the municipality or county shall issue a certificate of appointment bearing his signature or a facsimile thereof to the chief official and each inspector appointed by the municipality or county who shall produce the certificate upon request in the performance of his duties.

Agreements for provincial enforcement

(6) The council of a municipality and the Crown in right of Ontario represented by the Minister may enter into an agreement providing for the enforcement of this Act in the municipality by Ontario subject to such payment in respect of the cost thereof as is provided for in the agreement, and, while the agreement is in effect, Ontario has jurisdiction for the enforcement of this Act in the municipality.

Enforcement by Ontario

4.—(1) Ontario is responsible for the enforcement of this Act in territory without municipal organization.

Appointment of inspectors

(2) Such inspectors as are considered necessary for the enforcement of this Act in the parts of Ontario in which Ontario has jurisdiction therefor shall be appointed under *The Public Service Act.*

R.S.O. 1970, c. 386

Director, chief building official for Ontario

(3) The Director shall be deemed to be the chief building official for the parts of Ontario in which Ontario has jurisdiction for the enforcement of this Act.

Certificates of appointment

(4) The Deputy Minister of Consumer and Commercial Relations shall issue a certificate of appointment bearing his signature or a facsimile thereof to the Director and each inspector appointed under subsection 2 who shall produce the certificate upon request in the performance of his duties.

Agreements for enforcement by municipality

(5) The council of a municipality adjacent to territory without municipal organization and the Crown in right of Ontario represented by the Minister may enter into an agreement providing for the enforcement of this Act by the municipality in such part of the territory without municipal organization and subject to such payment in respect of the cost thereof as is provided in the agreement and, while the agreement is in effect, the municipality has jurisdiction for the enforcement of this Act in the area designated in the agreement.

Building permits

5.—(1) No person shall construct or demolish a building in a municipality unless a permit therefor has been issued by the chief official.

By-laws and regulations for building permits

(2) The council of a municipality may pass by-laws and the Lieutenant Governor in Council may make regulations applicable in the area in which the municipality or Ontario, respectively, has jurisdiction for the enforcement of this Act,

(*a*) prescribing classes of permits for the purposes of subsection 1, including permits in respect of any stage of construction or demolition;

(*b*) providing for applications for permits and requiring the applications to be accompanied by such plans, specifications, documents and other information as is prescribed;

(*c*) requiring the payment of fees on applications for and issuance of permits and prescribing the amounts thereof;

(*d*) providing for the refunding of fees under such circumstances as are prescribed;

(*e*) prescribing the time within which notices required by the regulations must be given to the chief official or an inspector;

(*f*) prescribing forms respecting permits and applications for permits and providing for their use.

6.—(1) The chief official shall issue a permit except where,

Issue of permits

(*a*) the proposed building or the proposed construction or demolition will not comply with this Act or the building code or will contravene any other applicable law; or

(*b*) the application therefor is incomplete or any fees due are unpaid.

(2) Drawings, plans and specifications accompanying applications for permits shall be made available to the Association of Professional Engineers of the Province of Ontario and the Ontario Association of Architects upon request for the purpose of determining whether *The Professional Engineers Act* or *The Architects Act* is being contravened. Disclosure of plans R.S.O. 1970, cc. 366, 27

(3) An applicant for a permit shall inform the chief official of any change in any information contained in the application. Notice of changes

(4) Subject to section 13, the chief official may revoke a permit, Revocation of permits

(*a*) where it was issued on mistaken or false information;

(*b*) where, after six months after its issuance, the construction or demolition in respect of which it was issued has not, in the opinion of the chief official, been seriously commenced; or

(*c*) where the construction or demolition of the building is, in the opinion of the chief official, substantially suspended or discontinued for a period of more than one year.

7. Subject to the regulations, no person shall occupy or use or permit to be occupied or used any building newly erected or installed until notice of the date of its completion is given to the chief official and, Occupation of new buildings

(*a*) an inspection is made pursuant to such notice; or

(*b*) ten days have elapsed after service of the notice or after the date of completion whichever occurs last,

and subject to compliance first being made with any order made by the inspector under section 8.

8.—(1) Subject to section 10, an inspector may, for the purpose of inspecting a building or site in respect of which a permit is issued or an application for a permit is made, enter in or upon any land or premises at any time without a warrant. Inspection

(2) Where an inspector finds that any provision of this Act or the building code is being contravened, he may give to the person whom he believes to be the contravener an order in writing directing compliance with such provision and may require the order to be carried out forthwith or within such time as he specifies. Order by inspector

Idem

(3) Where an inspector gives an order under this section, the order shall contain sufficient information to specify the nature of the contravention and its location.

Affixing copy of order

(4) Where an inspector gives an order under this section, he may affix a copy thereof to the site of the construction or demolition, and no person, except an inspector or the chief official, shall remove such copy unless authorized by the inspector or the chief official.

Stop work order

(5) Where an order of an inspector made under this section is not complied with within the time specified therein, or where no time is specified, within a reasonable time in the circumstances, the chief official may order that all or any part of the construction or demolition respecting the building cease and such order shall be served on such persons affected thereby as the chief official specifies and a copy thereof shall be posted on the site of the construction or demolition and no person except an inspector or the chief official shall remove such copy unless authorized by an inspector or the chief official.

Idem

(6) Where an order to cease construction or demolition is made under subsection 5, no person shall perform any act in the construction or demolition of the building in respect of which the order is made other than such work as is necessary to carry out the order of the inspector made under subsection 2.

Powers of inspectors respecting unsafe buildings

9.—(1) Subject to section 10, an inspector may enter in or upon any land or premises at any time without a warrant for the purpose of inspecting any building to determine whether such building is unsafe.

Order to remedy unsafe building

(2) Where an inspector finds that a building is unsafe, he may serve upon the assessed owner and each person apparently in possession of the building an order in writing setting out the reasons why the building is unsafe and the remedial steps that the inspector requires to be taken to render the building safe and may require the order to be carried out within such time as the inspector specifies in the order.

Prohibiting occupancy of unsafe building

(3) Where an order of an inspector under subsection 2 is not complied with within the time specified therein, or where no time is specified, within a reasonable time in the circumstances, the chief official may by order prohibit the use or occupancy of the building and such order shall be served on the assessed owner and each person apparently in possession and such other persons affected thereby as

the chief official specifies and a copy thereof shall be posted on the building, and no person except an inspector or the chief official shall remove such copy unless authorized by an inspector or the chief official.

(4) Where the chief official has made an order under subsection 2 and considers it necessary for the safety of the public, he may cause the building to be renovated, repaired or demolished for the purpose of removing the unsafe condition and, where the building is in a municipality, the cost of the renovation, repair or demolition may be added by the clerk to the collector's roll and collected in like manner as municipal taxes. Repairs at expense of owner

10.—(1) For the purposes of an inspection under section 8 or 9, the inspector may, Powers of inspector

(*a*) require the production of the drawings and specifications of a building or any part thereof, including any drawings prescribed by the regulations, for his inspection and may require information from any person concerning any matter related to a building or part thereof;

(*b*) be accompanied by any person who has special or expert knowledge of any matter in relation to a building or part thereof;

(*c*) alone or in conjunction with such other person or persons possessing special or expert knowledge, make such examinations, tests, inquiries, or, subject to subsections 2 and 3, take such samples or photographs as are necessary for the purposes of the inspection;

(*d*) order any person responsible for the construction to take and supply at his own expense such tests and samples as are specified in the order.

(2) Where an inspector takes a sample under clause *c* of subsection 1, the inspector shall divide the sample into two parts and deliver one part to the person from whom the sample is taken, if the person so requests at the time the sample is taken and provides the necessary facilities. Samples

(3) Where an inspector takes a sample under clause *c* of subsection 1 and has not divided the sample into two parts, a copy of any report on the sample shall be given to the person from whom the sample was taken. Idem

Entry to dwellings

(4) An inspector shall not enter any room or place actually being used as a dwelling without the consent of the occupier except under the authority of a search warrant issued under section 16 of *The Summary Convictions Act*.

R.S.O. 1970, c. 450

Review by chief official

11.—(1) The chief official may review and amend or rescind an order made by an inspector under this Act.

Chief official may act as inspector

(2) A chief official may exercise any of the powers or perform any of the duties of an inspector under this Act.

Building Code Commission established

12.—(1) The Building Code Commission is established, composed of such number of members as is determined by the Lieutenant Governor in Council.

Appointment of members

(2) The Lieutenant Governor in Council shall appoint the members to the Commission, none of whom shall be persons in the public service of Ontario or of a municipality, and may designate one of the members as chairman and one or more of the members as vice-chairmen.

Remuneration

(3) The members of the Commission shall receive such remuneration and expenses as the Lieutenant Governor in Council may determine.

Quorum

(4) Three members of the Commission constitute a quorum.

Hearings of Commission

13.—(1) Where a dispute arises between any person and the chief official or an inspector in respect of the interpretation of the technical requirements of the building code or the sufficiency of compliance with such technical requirements, any party to the dispute may apply to the Building Code Commission for a hearing and determination of the question.

Powers of Commission

(2) Where an application is made to the Building Code Commission under subsection 1, the Commission shall appoint a time and place for the hearing and notice thereof shall be served upon the other parties to the dispute and the Commission shall hold the hearing and may, by order, determine the dispute and for such purposes may substitute its opinion for that of the inspector or chief official.

Decision final

(3) The decision of the Building Code Commission under this section is final.

Members holding hearing not to have taken part in investigation, etc.

(4) Members of the Building Code Commission holding a hearing shall not have taken part prior to the hearing in any investigation or consideration of the subject-matter of the hearing and shall not communicate directly or in-

directly in relation to the subject-matter of the hearing with any person or with any party or his representative except upon notice to and opportunity for all parties to participate, but such members may seek legal or technical advice from an adviser independent from the parties and in such case the nature of the advice should be made known to the parties in order that they may make submissions.

Evidence

(5) The findings of fact of the Commission pursuant to a hearing shall be based exclusively on evidence admissible or matters that may be noticed under sections 15 and 16 of *The Statutory Powers Procedure Act, 1971*.

1971, c. 47

Only members at hearing to participate in decisions

(6) Members of the Commission shall not participate in a decision of the Commission pursuant to a hearing unless they were present throughout the hearing and heard the evidence and argument of the parties and, except with the consent of the parties, no decision of the Commission shall be given unless all members so present participate in the decision.

Release of documentary evidence

(7) Documents and things put in evidence at the hearing shall, upon the request of the person who produced them, be released to him by the Commission within a reasonable time after the matter in issue has been finally determined.

Hearings by county court judge

14.—(1) Any person who considers himself aggrieved by an order given or decision made by an inspector or chief official under this Act or the regulations may, within twenty days after the order or decision is made, apply to the judge of the county or district court for a hearing and appeal.

Effect of application on proceeding before Commission

(2) Where an application is made under this section in respect of a matter in which a question is pending before the Building Code Commission, the proceeding before the Commission is terminated.

Powers of judge on hearing

(3) Where an application is made to a judge for a hearing under subsection 1, the judge shall appoint a time for and hold the hearing and may rescind or affirm the order or decision of the inspector or chief official or take such action as the judge considers the inspector or chief official ought to take in accordance with this Act and the regulations, and for such purposes the judge may substitute his opinion for that of the inspector or chief official.

Reference to Commission

(4) A judge may refer a question respecting the interpretation of the technical requirements of the building code or the sufficiency of compliance with such technical requirements to the Building Code Commission for a hearing and

report to the judge and the procedure on the reference shall be the same as on an application under section 13.

Extension of time for hearing

(5) A judge to whom application is made for a hearing under subsection 1 may extend the time for making the application either before or after expiration of the time fixed therein, where he is satisfied that there are *prima facie* grounds for granting relief to the applicant pursuant to a hearing and that there are reasonable grounds for applying for the extension and may give such directions as he considers proper consequent upon the extension.

Lifting of stay

(6) The judge may, upon application therefor which may be made *ex parte*, order that the order or decision appealed from be not stayed pending the outcome of the appeal but shall take effect immediately where, in his opinion, such action is necessary in the interest of public safety and would not destroy the subject-matter of the appeal.

Appeal to Supreme Court

15.—(1) Any party to the hearing before the county or district court judge under section 14 may appeal from the decision of the judge to the Supreme Court in accordance with the rules of court.

Minister entitled to be heard

(2) The Minister is entitled to be heard, by counsel or otherwise, upon the argument of an appeal under this section.

Powers of court on appeal

(3) An appeal under this section may be made on any question that is not a question of fact alone and the court may confirm or alter the decision of the judge or direct the inspector or chief official to do any act he is authorized to do under this Act or may refer the matter back to the judge for reconsideration by the judge as the court considers proper and the court may substitute its opinion for that of the inspector or chief official or the judge.

Service of notice

16. Except where otherwise provided, any notice required by this Act to be served may be served personally or by registered mail addressed to the person to whom notice is to be given or his agent for service at his latest known address and, where notice is served by registered mail, the service shall be deemed to have been made on the third day after the day of mailing unless the person to whom notice is given or his agent for service establishes that he did not, acting in good faith, through absence, accident, illness or other cause beyond his control receive the notice until a later date.

Building Materials Evaluation Commission established

17.—(1) The Building Materials Evaluation Commission is established, composed of such number of members as is determined by the Lieutenant Governor in Council.

(2) The Lieutenant Governor in Council shall appoint the members to the Commission and may designate one of the members as chairman and one of the members as vice-chairman. Appointment of members

(3) The members of the Commission shall receive such remuneration and expenses as the Lieutenant Governor in Council may determine. Remuneration

(4) The Building Materials Evaluation Commission may, Powers and duties

(*a*) examine and research or cause examination and research into materials, techniques and building design for construction;

(*b*) upon application therefor, authorize the use of any innovative material, technique or building design in respect of any specified building or part thereof and the use of such material, technique or design within the authority given and the terms and conditions specified therein shall be deemed not to be in contravention of the building code; and

(*c*) make recommendations to the Minister respecting changes in this Act or the regulations.

18.—(1) The Lieutenant Governor in Council may make such regulations as are considered advisable or necessary for the purpose of establishing a building code for Ontario governing standards for the construction and demolition of buildings, including but without limiting the generality of the foregoing, Regulations

(*a*) governing the manner of construction and types and quality of materials used therein;

(*b*) governing the design of buildings and the use to which they may be put;

(*c*) adopting by reference, in whole or in part, with such changes as the Lieutenant Governor in Council considers necessary, any code or standard and requiring compliance with any code or standard that is so adopted;

(*d*) requiring any part of the design, construction or demolition of a building to be under the field review of an architect or professional engineer;

(*e*) designating structures for the purposes of clause *b* of section 1;

(*f*) designating organizations to test prefabricated building units to the standards prescribed by the building code and providing for the placing of the label of such organization on such units that conform to the standards;

(*g*) requiring the approval of an inspector in respect of any method, matter or thing;

(*h*) requiring the posting on buildings or sites of construction or demolition of such documents or information as is prescribed;

(*i*) requiring such documents, information, records, drawings or specifications as are prescribed to be kept on the site of construction or demolition;

(*j*) requiring notice to be given to the chief official or an inspector respecting any matter in the course of construction or demolition;

(*k*) requiring notice to be given to the chief official respecting the change in prescribed classes of use made of a building;

(*l*) requiring chief officials to transmit to the Director such returns and reports as are prescribed;

(*m*) prescribing conditions under which a building or any part of a building may be occupied;

(*n*) exempting any building or class thereof from compliance with this Act and the regulations or any provision thereof;

(*o*) requiring the payment of fees in respect of applications to the Building Materials Evaluation Commission and prescribing the amounts thereof;

(*p*) prescribing procedures of the Building Code Commission and the Building Materials Evaluation Commission;

(*q*) prescribing forms and providing for their use.

Limitation of application

(2) Any regulation made under this section may be limited in its application territorially or to any class of building, construction or demolition.

Inquiries

19.—(1) Where it appears to the Minister that there is or may be a failure in construction or demolition standards

or in the enforcement of this Act or the building code, the Minister may designate a person to conduct an inquiry into such failure.

(2) For the purposes of an inquiry under subsection 1, the person conducting the inquiry has the powers of a commission under Part II of *The Public Inquiries Act, 1971*, which Part applies to such investigation as if it were an inquiry under that Act. Powers on inquiry 1971, c. 49

20.—(1) No action or other proceeding for damages lies or shall be instituted against the Director or any member of the Building Code Commission or Building Materials Evaluation Commission or anyone acting under the authority of the Director, Building Code Commission or Building Materials Evaluation Commission or any person conducting an inquiry under section 19 for any act done in good faith in the execution or intended execution of his duty or for any alleged neglect or default in the execution in good faith of his duty. Immunity from actions

(2) No action or other proceedings for damages lies or shall be instituted against an inspector or chief official for an act or omission by him in good faith in the execution or intended execution of any power or duty under this Act or the regulations. Idem

(3) Subsections 1 and 2 do not relieve the Crown or a municipal corporation of liability in respect of a tort committed by an inspector or a chief official to which either would otherwise be subject and the Crown or municipal corporation is liable for any such tort as if subsections 1 and 2 were not enacted. Liability of Crown and municipality

21.—(1) No person shall hinder, obstruct, molest or interfere with or attempt to hinder, obstruct, molest or interfere with a chief official or inspector in the exercise of a power or the performance of a duty under this Act. Obstruction of inspector

(2) Every person shall furnish all necessary means in his power to facilitate any entry, inspection, examination, testing or inquiry by an inspector or chief official in the exercise of his powers or duties under this Act. Assistance of inspector

(3) No person shall neglect or refuse to produce any drawings and specifications as required by an inspector under clauses *a* and *c* of subsection 1 of section 10. Refusal to produce

(4) No person shall furnish an inspector or chief official with false information or neglect or refuse to furnish False information, etc.

information required by an inspector or chief official in the exercise of his duties under this Act.

Information confidential

22.—(1) A chief official, inspector, person who, at the request of an inspector, accompanies an inspector, or person who, at the request of an inspector, makes an examination, test, or inquiry, or takes samples shall not publish, disclose or communicate to any person any information, material, statement or result of any test, acquired, furnished, obtained, made or received under the powers conferred under this Act and the regulations except for the purposes of carrying out his duties under this Act or the regulations.

Idem

(2) No report of a chief official, inspector, person who, at the request of an inspector, accompanies an inspector, or person who, at the request of an inspector, makes an examination, test, inquiry or takes samples shall be communicated, disclosed or published to any person except for the purposes of carrying out his duties under this Act or the regulations.

Compellability in civil suit

(3) No chief official, inspector, person who, at the request of an inspector, accompanies an inspector or person who makes an examination, test, inquiry or takes samples at the request of an inspector is a compellable witness in a civil suit or proceeding respecting any information, material, statement or test acquired, furnished, obtained, made or received under the powers conferred under this Act.

Power of Director to disclose

(4) The Director may communicate or allow to be communicated, disclosed or published information, material, statements, or the result of a test acquired, furnished, obtained, made or received under the powers conferred by this Act and the regulations.

Informant confidential

(5) No person to whom information is communicated under this section or sections 10 and 21 shall divulge the name of the informant to any person except for the purposes of this Act.

Offences

23.—(1) Every person who,

(*a*) knowingly furnishes false information in any application under this Act or in any statement or return required to be furnished under this Act or the regulations;

(*b*) fails to comply with any order, direction or other requirement made under this Act; or

(*c*) contravenes any provision of this Act or the regulations,

and every director or officer of a corporation who knowingly concurs in such furnishing, failure or contravention is guilty of an offence and on summary conviction is liable to a fine of not more than $2,000 or to imprisonment for a term of not more than one year, or to both.

Corporations

(2) Where a corporation is convicted of an offence under subsection 1, the maximum penalty that may be imposed upon the corporation is $10,000 and not as provided therein.

Continuing offence

(3) Every person who fails to comply with an order made by a chief official under subsection 5 of section 8 or subsection 3 of section 9 is guilty of an offence and on summary conviction, in addition to the penalties mentioned in subsections 1 and 2, is liable to a fine of not more than $100 per day for every day upon which the offence continued after such order was given.

Proof of order

24.—(1) In any prosecution for an offence under this Act, a copy of a direction or order purporting to have been made under this Act or the regulations and purporting to have been signed by the person authorized by this Act to make the direction or order is *prima facie* proof of the direction or order without proof of the signature or authority of the person by whom it purports to be signed.

Proof of matters of record

(2) A statement as to any matter of record in an office of the chief official purporting to be certified by the chief official is, without proof of the office or signature of the chief official, receivable in evidence as *prima facie* proof of the facts stated therein for all purposes in any action, proceeding or prosecution.

Restraining order

25.—(1) Where it appears to a chief official that any person does not comply with any provision of this Act, the regulations or an order made under this Act, notwithstanding the imposition of any penalty in respect of such non-compliance and in addition to any other rights he may have, the chief official may apply to a judge of the High Court for an order directing such person to comply with such provision, and upon the application, the judge may make such order or such other order as the judge thinks fit.

Appeal

(2) An appeal lies to the Supreme Court from an order made under subsection 1.

Municipal by-laws superseded

R.S.O. 1970, c. 349

26. Section 38 of *The Planning Act* is subject to this Act and the building code made under section 18 of this Act supersedes all municipal by-laws respecting the construction or demolition of buildings as defined in section 1.

Continuation of by-laws

27. Notwithstanding section 26, the by-laws made under the provisions referred to therein continue in force in lieu of the building code in respect of construction,

(*a*) for which a permit has been issued before this Act comes into force; or

(*b*) for which the working drawings, plans and specifications are substantially completed before this Act comes into force and for which an application for a permit under a by-law made under section 38 of *The Planning Act* is made within three months after that date,

on condition that the construction is commenced within six months after the permit is issued.

Commencement

28. This Act comes into force on a day to be named by proclamation of the Lieutenant Governor.

Short title

29. This Act may be cited as *The Building Code Act, 1974*.

An Act to provide for
an Ontario Building Code

1st Reading

May 10th, 1974

2nd Reading

November 14th, 1974

3rd Reading

December 2nd, 1974

THE HON. J. T. CLEMENT
Minister of Consumer and
Commercial Relations

1974

BILL 63 Government Bill

4TH SESSION, 29TH LEGISLATURE, ONTARIO
23 ELIZABETH II, 1974

An Act to amend The Housing Development Act

THE HON. S. B. HANDLEMAN
Minister of Housing

TORONTO
PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO

Explanatory Notes

Section 1. The definition of "building development" is updated and extended. The definition of "Minister" is re-enacted to refer to the Minister of Housing. A definition of "municipality" is provided to include district, metropolitan and regional municipalities and "regulations" is defined.

Section 2. The authority of the Lieutenant Governor in Council to provide financial assistance for housing is extended to include assistance with maintenance and operating costs as well as rent-supplement and related assistance.

BILL 63 **1974**

An Act to amend The Housing Development Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) Clause *a* of section 1 of *The Housing Development Act*, being chapter 213 of the Revised Statutes of Ontario, 1970, is repealed and the following substituted therefor: s. 1 (*a*), re-enacted

(*a*) "building development" means a project or undertaking designed to provide, or to facilitate in any way the provision, repair, rehabilitation or improvement of, housing accommodation with or without public buildings, recreational facilities, industrial and commercial buildings or space appropriate therefor.

(2) Clause *c* of the said section 1 is repealed and the following substituted therefor: s. 1 (*c*), re-enacted

(*c*) "Minister" means the Minister of Housing.

(3) The said section 1 is amended by adding thereto the following clauses: s. 1, amended

(*d*) "municipality" means the corporation of a county, city, town, village or township or of a district, metropolitan or regional municipality;

(*e*) "regulations" means the regulations made under this Act.

2. Clause *e* of subsection 1 of section 2 of the said Act is repealed and the following substituted therefor: s. 2 (1) (*e*), re-enacted

(*e*) make grants or loans in aid of the capital, maintenance, operating and other costs of any building development; and

(*f*) provide financial assistance to or for the benefit of any occupant or any class or classes of occupants of housing accommodation to assist in the payment of rent, mortgage payments or other charges relating to the occupancy of such accommodation.

s. 2*a*, enacted

3. The said Act is amended by adding thereto the following section:

Grants or loans

2*a*.—(1) The Minister, out of the moneys appropriated therefor by the Legislature, may make grants or loans to a municipality or to any person on such terms and conditions and in such amounts as are prescribed by the regulations to assist in the repair, rehabilitation and improvement of real property used for residential purposes, which property is occupied by the owner thereof.

Lien

(2) Where a municipality uses moneys received from the Minister under subsection 1 to make a loan to an owner of real property used for residential purposes for the purposes referred to in subsection 1, the amount of the loan, together with interest at a rate to be determined by the council of the municipality, may be added by the clerk of the municipality to the collector's roll and collected in like manner as municipal taxes over a period fixed by the council, and such amount and interest shall, until payment thereof, be a lien or charge upon the land in respect of which the loan has been made.

Registration of certificate

(3) A certificate signed by the clerk of the municipality setting out the amount loaned to an owner as referred to in subsection 2, including the rate of interest thereon, together with a description of the land in respect of which the loan has been made, sufficient for registration, shall be registered in the proper land registry office against the land, and, upon repayment in full to the municipality of the amount loaned and interest thereon, a certificate signed by the clerk of the municipality showing such repayment shall be similarly registered, and thereupon the lien or charge upon the land in respect of which the loan was made is discharged.

s. 6 (6, 9, 10), re-enacted

4. Subsections 6, 9 and 10 of section 6 of the said Act are repealed and the following substituted therefor:

Payments in lieu of taxes

(6) The Crown in right of Ontario represented by the Minister may agree to pay annually to any municipality, in respect of any lands in the municipality acquired for any housing project or building development and that are exempt from municipal taxation, a sum of money calculated on any basis whatsoever but not in excess of the amount that in the

SECTION 3. The Minister is authorized to make grants or loans to municipalities or persons to assist in the repair, rehabilitation and improvement of residential properties.

SECTION 4. The amendments extend the authority of the Province to make payments in lieu of taxes in respect of any lands acquired for a housing project or building development. Presently, the authority is confined to the making of payments in respect of joint housing projects.

As well, the authority for the Lieutenant Governor in Council to expedite the development of joint housing projects is extended to apply to any housing project or building development.

SECTION 5. Repeal of the present provisions is complementary to section 1 (2) whereunder "Minister" is defined.

Under the substituted provisions, municipalities are authorized to incorporate non-profit housing corporations.

opinion of the Minister of Revenue would have been payable to the municipality as taxes on such lands if they had been assessed and taxed in the usual way.

. . . . .

(9) Notwithstanding any other Act, the Lieutenant Governor in Council may authorize any municipality in or near which a housing project or building development is undertaken to do or not to do such acts or things as are considered expedient in order to avoid undue delay in the development of the housing project or building development, including the furnishing of municipal services.

Power to expedite development of projects or developments

(10) Where a payment is made to a municipality under subsection 6, such payment shall be distributed by the council of the municipality to each of the bodies for which the council is required by law to levy or collect rates as if the land in respect of which the payment is made had been assessed and taxed in the usual way, and for all purposes of distribution of any part of such payment between school boards, the tenants of such land shall be deemed to be rated as tenants on the assessment roll of the municipality.

Distribution of payments in lieu of taxes

5. Section 12 of the said Act is repealed and the following substituted therefor:

s. 12, re-enacted

12.—(1) A municipality, either solely or together with one or more other persons, may incorporate under the laws of Ontario one or more non-profit housing corporations having as the objects of incorporation the provision and operation of housing accommodation with or without any public space, recreational facilities and commercial space or buildings appropriate thereto primarily for persons of low or modest income at rentals below the current rental market in the area in which the accommodation is located.

Incorporation of non-profit housing corporation

(2) A municipality that incorporates a corporation as referred to in subsection 1 may own or control all or any part of the shares, capital or assets, as the case may be, of the corporation, provided however that, notwithstanding any of the provisions of *The Corporations Act* or *The Business Corporations Act*, the directors of the corporation shall not declare, nor the corporation pay, any dividends on any issued shares of the corporation, and no part of the income of the corporation shall be payable to or otherwise available for the personal benefit of any shareholder or member of the corporation and its letters patent, supplementary letters patent or articles may so provide.

Provisions applicable to corporation incorporated by municipality

R.S.O. 1970, cc. 89, 53

Acquisition of land by corporation

(3) Where a corporation is incorporated as referred to in subsection 1, the corporation shall not acquire lands for its purposes except with the approval of the Minister or except in accordance with the provisions of an official plan or a policy statement, which official plan provisions or policy statement have been approved by the Minister under section 16.

s. 14 (*a*), re-enacted

6.—(1) Clause *a* of section 14 of the said Act is repealed and the following substituted therefor:

(*a*) prescribing amounts of and the terms and conditions upon which money may be granted, loaned, advanced or guaranteed under this Act or any section thereof.

s. 14, amended

(2) The said section 14 is amended by adding thereto the following clause:

(*ca*) prescribing forms and providing for their use.

s. 16, re-enacted

7. Section 16 of the said Act is repealed and the following substituted therefor:

Acquisition of land for housing projects

16. If there is an official plan in effect in a municipality that includes provisions relating to the provision of housing, which provisions have been approved by the Minister subsequent to the coming into force of this section, or if the council of a municipality has adopted a policy statement containing provisions relating to the provision of housing which statement has been approved by the Minister, the council of the municipality may,

(*a*) acquire and hold land, with or without buildings thereon, within the municipality for the purpose of a housing project;

(*b*) survey, clear, grade, subdivide, service and otherwise prepare such land for the purpose of the project; and

(*c*) sell, lease or otherwise dispose of such land for a nominal or other consideration for housing purposes.

Commencement

8. This Act comes into force on the day it receives Royal Assent.

Short title

9. This Act may be cited as *The Housing Development Amendment Act, 1974*.

SECTION 6. The amendments are complementary to section 3 of the Bill.

SECTION 7. The section as re-enacted will permit municipalities to acquire land for housing projects if the acquisition is in accordance with official plan provisions or policy statements that have been approved by the Minister.

An Act to amend
The Housing Development Act

1st Reading

May 10th, 1974

2nd Reading

3rd Reading

THE HON. S. B. HANDLEMAN
Minister of Housing

(*Government Bill*)

1974

BILL 63 **Government Bill**

4TH SESSION, 29TH LEGISLATURE, ONTARIO
23 ELIZABETH II, 1974

An Act to amend The Housing Development Act

THE HON. S. B. HANDLEMAN
Minister of Housing

(Reprinted as amended by the Committee of the Whole House)

TORONTO
PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO

Explanatory Notes

Section 1. The definition of "building development" is updated and extended. The definition of "Minister" is re-enacted to refer to the Minister of Housing. A definition of "municipality" is provided to include district, metropolitan and regional municipalities and "regulations" is defined.

Section 2. The authority of the Lieutenant Governor in Council to provide financial assistance for housing is extended to include assistance with maintenance and operating costs as well as rent-supplement and related assistance.

BILL 63 **1974**

An Act to amend The Housing Development Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) Clause *a* of section 1 of *The Housing Development Act*, being chapter 213 of the Revised Statutes of Ontario, 1970, is repealed and the following substituted therefor: s. 1 (*a*), re-enacted

(*a*) "building development" means a project or undertaking designed to provide, or to facilitate in any way the provision, repair, rehabilitation or improvement of, housing accommodation with or without public buildings, recreational facilities, industrial and commercial buildings or space appropriate therefor.

(2) Clause *c* of the said section 1 is repealed and the following substituted therefor: s. 1 (*c*), re-enacted

(*c*) "Minister" means the Minister of Housing.

(3) The said section 1 is amended by adding thereto the following clauses: s. 1, amended

(*d*) "municipality" means the corporation of a county, city, town, village or township or of a district, metropolitan or regional municipality;

(*e*) "regulations" means the regulations made under this Act.

2. Clause *e* of subsection 1 of section 2 of the said Act is repealed and the following substituted therefor: s. 2 (1) (*e*), re-enacted

(*e*) make grants or loans in aid of the capital, maintenance, operating and other costs of any building development; and

(*f*) provide financial assistance to or for the benefit of any occupant or any class or classes of occupant of housing accommodation to assist in the payment of rent, mortgage payments or other charges relating to the occupancy of such accommodation.

s. 2*a*, enacted

3. The said Act is amended by adding thereto the following section:

Grants or loans

2*a*.—(1) The Minister, out of the moneys appropriated therefor by the Legislature, may make grants or loans to a municipality or to any person on such terms and conditions and in such amounts as are prescribed by the regulations to assist in the repair, rehabilitation and improvement of real property used for residential purposes, which property is occupied by the owner thereof.

Lien

(2) Where a municipality uses moneys received from the Minister under subsection 1 to make a loan to an owner of real property used for residential purposes for the purposes referred to in subsection 1, the amount of the loan, together with interest at a rate to be determined by the council of the municipality, may be added by the clerk of the municipality to the collector's roll and collected in like manner as municipal taxes over a period fixed by the council, and such amount and interest shall, until payment thereof, be a lien or charge upon the land in respect of which the loan has been made.

Registration of certificate

(3) A certificate signed by the clerk of the municipality setting out the amount loaned to an owner as referred to in subsection 2, including the rate of interest thereon, together with a description of the land in respect of which the loan has been made, sufficient for registration, shall be registered in the proper land registry office against the land, and, upon repayment in full to the municipality of the amount loaned and interest thereon, a certificate signed by the clerk of the municipality showing such repayment shall be similarly registered, and thereupon the lien or charge upon the land in respect of which the loan was made is discharged.

s. 6 (6, 9, 10), re-enacted

4. Subsections 6, 9 and 10 of section 6 of the said Act are repealed and the following substituted therefor:

Payments in lieu of taxes

(6) The Crown in right of Ontario represented by the Minister may agree to pay annually to any municipality, in respect of any lands in the municipality acquired for any housing project or building development and that are exempt from municipal taxation, a sum of money calculated on any basis whatsoever but not in excess of the amount that in the

SECTION 3. The Minister is authorized to make grants or loans to municipalities or persons to assist in the repair, rehabilitation and improvement of residential properties.

SECTION 4. The amendments extend the authority of the Province to make payments in lieu of taxes in respect of any lands acquired for a housing project or building development. Presently, the authority is confined to the making of payments in respect of joint housing projects.

As well, the authority for the Lieutenant Governor in Council to expedite the development of joint housing projects is extended to apply to any housing project or building development.

SECTION 5. Repeal of the present provisions is complementary to section 1 (2) whereunder "Minister" is defined.

Under the substituted provisions, municipalities are authorized to incorporate non-profit housing corporations.

opinion of the Minister of Revenue would have been payable to the municipality as taxes on such lands if they had been assessed and taxed in the usual way.

. . . . .

(9) Notwithstanding any other Act, the Lieutenant Governor in Council may authorize any municipality in or near which a housing project or building development is undertaken to do or not to do such acts or things as are considered expedient in order to avoid undue delay in the development of the housing project or building development, including the furnishing of municipal services.

Power to expedite development of projects or developments

(10) Where a payment is made to a municipality under subsection 6, such payment shall be distributed by the council of the municipality to each of the bodies for which the council is required by law to levy or collect rates as if the land in respect of which the payment is made had been assessed and taxed in the usual way, and for all purposes of distribution of any part of such payment between school boards, the tenants of such land shall be deemed to be rated as tenants on the assessment roll of the municipality.

Distribution of payments in lieu of taxes

5. Section 12 of the said Act is repealed and the following substituted therefor:

s. 12, re-enacted

12.—(1) A municipality, either solely or together with one or more other persons, may incorporate under the laws of Ontario one or more non-profit housing corporations having as the objects of incorporation the provision and operation of housing accommodation with or without any public space, recreational facilities and commercial space or buildings appropriate thereto primarily for persons of low or modest income at rentals below the current rental market in the area in which the accommodation is located.

Incorporation of non-profit housing corporation

(2) A municipality that incorporates a corporation as referred to in subsection 1 may own or control all or any part of the shares, capital or assets, as the case may be, of the corporation, provided however that, notwithstanding any of the provisions of *The Corporations Act* or *The Business Corporations Act*, the directors of the corporation shall not declare, nor the corporation pay, any dividends on any issued shares of the corporation, and no part of the income of the corporation shall be payable to or otherwise available for the personal benefit of any shareholder or member of the corporation and its letters patent, supplementary letters patent or articles may so provide.

Provisions applicable to corporation incorporated by municipality

R.S.O. 1970, cc. 89, 53

Acquisition of land by corporation

(3) Where a corporation is incorporated as referred to in subsection 1, the corporation shall not acquire lands for its purposes except with the approval of the Minister or except in accordance with the provisions of an official plan or a policy statement, which official plan provisions or policy statement have been approved by the Minister under section 16.

Non-application of R.S.O. 1970, c. 323, s. 64

(4) Section 64 of *The Ontario Municipal Board Act* does not apply to a corporation as referred to in subsection 1.

s. 14 (*a*), re-enacted

6.—(1) Clause *a* of section 14 of the said Act is repealed and the following substituted therefor:

(*a*) prescribing amounts of and the terms and conditions upon which money may be granted, loaned, advanced or guaranteed under this Act or any section thereof.

s. 14, amended

(2) The said section 14 is amended by adding thereto the following clause:

(*ca*) prescribing forms and providing for their use.

s. 16, re-enacted

7. Section 16 of the said Act is repealed and the following substituted therefor:

Acquisition of land for housing projects

16. If there is an official plan in effect in a municipality that includes provisions relating to the provision of housing, which provisions have been approved by the Minister subsequent to the coming into force of this section, or if the council of a municipality has adopted a policy statement containing provisions relating to the provision of housing which statement has been approved by the Minister, the council of the municipality may,

(*a*) acquire and hold land, with or without buildings thereon, within the municipality for the purpose of a housing project;

(*b*) survey, clear, grade, subdivide, service and otherwise prepare such land for the purpose of the project; and

(*c*) sell, lease or otherwise dispose of such land for a nominal or other consideration for housing purposes.

Commencement

8. This Act comes into force on the day it receives Royal Assent.

Short title

9. This Act may be cited as *The Housing Development Amendment Act, 1974*.

SECTION 6. The amendments are complementary to section 3 of the Bill.

SECTION 7. The section as re-enacted will permit municipalities to acquire land for housing projects if the acquisition is in accordance with official plan provisions or policy statements that have been approved by the Minister.

BILL 63

An Act to amend
The Housing Development Act

1st Reading

May 10th, 1974

2nd Reading

June 13th, 1974

3rd Reading

THE HON. S. B. HANDLEMAN
Minister of Housing

(Reprinted as amended by the Committee of the Whole House)

1974

BILL 63

4TH SESSION, 29TH LEGISLATURE, ONTARIO
23 ELIZABETH II, 1974

An Act to amend The Housing Development Act

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TORONTO
PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO

BILL 63 **1974**

An Act to amend The Housing Development Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) Clause *a* of section 1 of *The Housing Development Act*, being chapter 213 of the Revised Statutes of Ontario, 1970, is repealed and the following substituted therefor: s. 1 (*a*), re-enacted

(*a*) "building development" means a project or undertaking designed to provide, or to facilitate in any way the provision, repair, rehabilitation or improvement of, housing accommodation with or without public buildings, recreational facilities, industrial and commercial buildings or space appropriate therefor.

(2) Clause *c* of the said section 1 is repealed and the following substituted therefor: s. 1 (*c*), re-enacted

(*c*) "Minister" means the Minister of Housing.

(3) The said section 1 is amended by adding thereto the following clauses: s. 1, amended

(*d*) "municipality" means the corporation of a county, city, town, village or township or of a district, metropolitan or regional municipality;

(*e*) "regulations" means the regulations made under this Act.

2. Clause *e* of subsection 1 of section 2 of the said Act is repealed and the following substituted therefor: s. 2 (1) (*e*), re-enacted

(*e*) make grants or loans in aid of the capital, maintenance, operating and other costs of any building development; and

(*f*) provide financial assistance to or for the benefit of any occupant or any class or classes of occupant of housing accommodation to assist in the payment of rent, mortgage payments or other charges relating to the occupancy of such accommodation.

s. 2*a*, enacted

3. The said Act is amended by adding thereto the following section:

Grants or loans

2*a*.—(1) The Minister, out of the moneys appropriated therefor by the Legislature, may make grants or loans to a municipality or to any person on such terms and conditions and in such amounts as are prescribed by the regulations to assist in the repair, rehabilitation and improvement of real property used for residential purposes, which property is occupied by the owner thereof.

Lien

(2) Where a municipality uses moneys received from the Minister under subsection 1 to make a loan to an owner of real property used for residential purposes for the purposes referred to in subsection 1, the amount of the loan, together with interest at a rate to be determined by the council of the municipality, may be added by the clerk of the municipality to the collector's roll and collected in like manner as municipal taxes over a period fixed by the council, and such amount and interest shall, until payment thereof, be a lien or charge upon the land in respect of which the loan has been made.

Registration of certificate

(3) A certificate signed by the clerk of the municipality setting out the amount loaned to an owner as referred to in subsection 2, including the rate of interest thereon, together with a description of the land in respect of which the loan has been made, sufficient for registration, shall be registered in the proper land registry office against the land, and, upon repayment in full to the municipality of the amount loaned and interest thereon, a certificate signed by the clerk of the municipality showing such repayment shall be similarly registered, and thereupon the lien or charge upon the land in respect of which the loan was made is discharged.

s. 6 (6, 9, 10), re-enacted

4. Subsections 6, 9 and 10 of section 6 of the said Act are repealed and the following substituted therefor:

Payments in lieu of taxes

(6) The Crown in right of Ontario represented by the Minister may agree to pay annually to any municipality, in respect of any lands in the municipality acquired for any housing project or building development and that are exempt from municipal taxation, a sum of money calculated on any basis whatsoever but not in excess of the amount that in the

opinion of the Minister of Revenue would have been payable to the municipality as taxes on such lands if they had been assessed and taxed in the usual way.

. . . . .

(9) Notwithstanding any other Act, the Lieutenant Governor in Council may authorize any municipality in or near which a housing project or building development is undertaken to do or not to do such acts or things as are considered expedient in order to avoid undue delay in the development of the housing project or building development, including the furnishing of municipal services. Power to expedite development of projects or developments

(10) Where a payment is made to a municipality under subsection 6, such payment shall be distributed by the council of the municipality to each of the bodies for which the council is required by law to levy or collect rates as if the land in respect of which the payment is made had been assessed and taxed in the usual way, and for all purposes of distribution of any part of such payment between school boards, the tenants of such land shall be deemed to be rated as tenants on the assessment roll of the municipality. Distribution of payments in lieu of taxes

5. Section 12 of the said Act is repealed and the following substituted therefor: s. 12, re-enacted

12.—(1) A municipality, either solely or together with one or more other persons, may incorporate under the laws of Ontario one or more non-profit housing corporations having as the objects of incorporation the provision and operation of housing accommodation with or without any public space, recreational facilities and commercial space or buildings appropriate thereto primarily for persons of low or modest income at rentals below the current rental market in the area in which the accommodation is located. Incorporation of non-profit housing corporation

(2) A municipality that incorporates a corporation as referred to in subsection 1 may own or control all or any part of the shares, capital or assets, as the case may be, of the corporation, provided however that, notwithstanding any of the provisions of *The Corporations Act* or *The Business Corporations Act*, the directors of the corporation shall not declare, nor the corporation pay, any dividends on any issued shares of the corporation, and no part of the income of the corporation shall be payable to or otherwise available for the personal benefit of any shareholder or member of the corporation and its letters patent, supplementary letters patent or articles may so provide. Provisions applicable to corporation incorporated by municipality R.S.O. 1970, cc. 89, 53

Acquisition of land by corporation

(3) Where a corporation is incorporated as referred to in subsection 1, the corporation shall not acquire lands for its purposes except with the approval of the Minister or except in accordance with the provisions of an official plan or a policy statement, which official plan provisions or policy statement have been approved by the Minister under section 16.

Non-application of R.S.O. 1970, c. 323, s. 64

(4) Section 64 of *The Ontario Municipal Board Act* does not apply to a corporation as referred to in subsection 1.

s. 14 (*a*), re-enacted

6.—(1) Clause *a* of section 14 of the said Act is repealed and the following substituted therefor:

(*a*) prescribing amounts of and the terms and conditions upon which money may be granted, loaned, advanced or guaranteed under this Act or any section thereof.

s. 14, amended

(2) The said section 14 is amended by adding thereto the following clause:

(*ca*) prescribing forms and providing for their use.

s. 16, re-enacted

7. Section 16 of the said Act is repealed and the following substituted therefor:

Acquisition of land for housing projects

16. If there is an official plan in effect in a municipality that includes provisions relating to the provision of housing, which provisions have been approved by the Minister subsequent to the coming into force of this section, or if the council of a municipality has adopted a policy statement containing provisions relating to the provision of housing which statement has been approved by the Minister, the council of the municipality may,

(*a*) acquire and hold land, with or without buildings thereon, within the municipality for the purpose of a housing project;

(*b*) survey, clear, grade, subdivide, service and otherwise prepare such land for the purpose of the project; and

(*c*) sell, lease or otherwise dispose of such land for a nominal or other consideration for housing purposes.

Commencement

8. This Act comes into force on the day it receives Royal Assent.

Short title

9. This Act may be cited as *The Housing Development Amendment Act, 1974*.

BILL 63

An Act to amend
The Housing Development Act

1st Reading

May 10th, 1974

2nd Reading

June 13th, 1974

3rd Reading

June 13th, 1974

THE HON. S. B. HANDLEMAN
Minister of Housing

1974

BILL 64 **Private Member's Bill**

4TH SESSION, 29TH LEGISLATURE, ONTARIO
23 ELIZABETH II, 1974

An Act to control Professional Fund-raising Corporations

MR. NEWMAN (Windsor-Walkerville)

TORONTO
PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO

Explanatory Note

The Bill provides for the licensing of professional fund-raising corporations.

BILL 64 **1974**

An Act to control Professional Fund-raising Corporations

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. In this Act, Interpretation

(*a*) "Commissioner" means the Commissioner of professional fund-raising corporations;

(*b*) "Director" means the Director of the Consumer Protection Division of the Ministry;

(*c*) "Minister" means the Minister of Consumer and Commercial Relations;

(*d*) "Ministry" means the Ministry of Consumer and Commercial Relations;

(*e*) "professional fund-raising corporation" means a corporation that has as its objects, the raising of money for non-profit organizations in return for remuneration of any kind and includes a sole proprietorship or partnership which raises money for non-profit organizations in return for remuneration of any kind;

(*f*) "regulations" means the regulations made under this Act;

(*g*) "Tribunal" means The Commercial Registration Appeal Tribunal established under *The Department of Financial and Commercial Affairs Act*. R.S.O. 1970, c. 113

COMMISSIONER

2.—(1) There shall be a Commissioner of professional fund-raising corporations who shall be appointed by the Lieutenant Governor in Council. Commissioner

Powers and duties of Commissioner

(2) The Commissioner may exercise the powers and shall discharge the duties conferred and imposed upon him by this Act and the regulations under the supervision of the Director.

LICENSING

Licensing

3.—(1) No person shall engage in business as a professional fund-raising corporation unless he is licensed as a professional fund-raising corporation.

Change in partnership

(2) Where a partnership is licensed under subsection 1, any change in the membership of the partnership shall be deemed to create a new partnership for the purpose of licensing.

Licensing, exception

4.—(1) An applicant is entitled to a licence or renewal of a licence by the Commissioner except where,

(*a*) having regard to his financial position, the applicant cannot reasonably be expected to be financially responsible in the conduct of his business; or

(*b*) the past conduct of the applicant affords reasonable grounds for belief that he will not carry on business in accordance with law and with integrity and honesty; or

(*c*) the applicant is a corporation and,

(i) having regard to its financial position, it cannot reasonably be expected to be financially responsible in the conduct of its business, or

(ii) the past conduct of its officers or directors affords reasonable grounds for belief that its business will not be carried on in accordance with law and with integrity and honesty; or

(*d*) the applicant is carrying on activities that are, or will be, if the applicant is licensed, in contravention of this Act or the regulations.

Conditions of a licence

(2) A licence is subject to such terms and conditions to give effect to the purposes of this Act as are consented to by the applicant, imposed by the Tribunal or prescribed by the regulations.

Refusal to grant a licence

5.—(1) Subject to section 9, the Commissioner may refuse to grant a licence to an applicant where in the Commissioner's opinion the applicant is disentitled to a licence under section 4.

(2) Subject to section 6, the Commissioner may refuse to renew or may suspend or revoke a licence for any reason that would disentitle the licensee to a licence under section 4 if he were an applicant or where the licensee is in breach of a term or condition of the licence. **Revocation**

6.—(1) Where the Commissioner proposes to refuse to grant or renew a licence or proposes to suspend or revoke a licence, he shall serve notice of his proposal, together with written reasons therefor, on the applicant or licensee. **Notice of proposal to refuse or revoke**

(2) A notice under subsection 1 shall inform the applicant or licensee that he is entitled to a hearing by the Tribunal if he mails or delivers, within fifteen days after the notice under section 1 is served on him, notice in writing requiring a hearing to the Commissioner and the Tribunal, and he may so require such a hearing. **Notice requiring hearing**

(3) Where an applicant or licensee does not require a hearing by the Tribunal in accordance with subsection 2, the Commissioner may carry out the proposal stated in his notice under subsection 1. **Powers of Commissioner where no hearing**

(4) Where an applicant or licensee requires a hearing by the Tribunal in accordance with subsection 2, the Tribunal shall appoint a time for and hold the hearing and, on the application of the Commissioner at the hearing, may by order direct the Commissioner to carry out his proposal or refrain from carrying out his proposal and to take such action as the Tribunal considers the Commissioner ought to take in accordance with this Act and the regulations, and for such purposes the Tribunal may substitute its opinion for that of the Commissioner. **Powers of Tribunal where hearing**

(5) The Tribunal may attach such terms and conditions to its order or to the licence as it considers proper to give effect to the purposes of this Act. **Conditions of order**

(6) The Commissioner, the applicant or licensee who has required the hearing and such other persons as the Tribunal may specify are parties to proceedings before the Tribunal under this section. **Parties**

(7) Notwithstanding subsection 1, the Commissioner may cancel a licence upon the request in writing of the licensee in the prescribed form surrendering his licence. **Voluntary cancellation**

(8) Where, within the time prescribed therefor or, if no time is prescribed, before expiry of his licence, a licensee has applied for renewal of his licence and paid the prescribed fee, his licence shall be deemed to continue, **Continuation of licence pending renewal**

(*a*) until the renewal is granted; or

(*b*) where he is served with notice that the Commissioner proposes to refuse to grant the renewal, until the time for giving notice requiring a hearing has expired and, where a hearing is required, until the Tribunal has made its order.

Order of Tribunal effective, stay R.S.O. 1970, c. 113

(9) Notwithstanding that a licensee appeals from an order of the Tribunal under section 9*b* of *The Ministry of Consumer and Commercial Relations Act*, the order takes effect immediately, but the Tribunal may grant a stay until disposition of the appeal.

Further applications

7. A further application for a licence may be made upon new or other evidence or where it is clear that material circumstances have changed.

Investigation of complaints

8.—(1) Where the Commissioner receives a complaint in respect of a professional fund-raising corporation and so requests in writing, the professional fund-raising corporation shall furnish the Commissioner with such information respecting the matter complained of as the Commissioner requires.

Idem

(2) The request under subsection 1 shall indicate the nature of the inquiry involved.

Idem

(3) For the purposes of subsection 1, the Commissioner or any person designated in writing by him may at any reasonable time enter upon the business premises of the licensee to make an inspection in relation to the complaint.

Inspection

9.—(1) The Commissioner or any person designated by him in writing may at any reasonable time enter upon the business premises of the licensee to make an inspection to ensure that the provisions of this Act and the regulations relating to a licence are being complied with.

Idem

(2) Where the Commissioner has reasonable and probable grounds to believe that any person is acting as a professional fund-raising corporation while not licensed, the Commissioner or any person designated by him in writing may at any reasonable time enter upon such person's business premises to make an inspection for the purpose of determining whether or not the person is in contravention of section 3.

Powers on inspection

10.—(1) Upon an inspection under section 8 or 9, the person inspecting,

(*a*) is entitled to free access to all books of account, cash, documents, bank accounts, vouchers, correspondence and records of the person being inspected that are relevant for the purposes of the inspection; and

(*b*) may, upon giving a receipt therefor, remove any material referred to in clause *a* that relates to the purpose of the inspection for the purpose of making a copy thereof, provided that such copying is carried out with reasonable dispatch and the material in question is promptly thereafter returned to the person being inspected,

and no person shall obstruct the person inspecting or withhold or destroy, conceal or refuse to furnish any information or thing required by the person inspecting for the purposes of the inspection.

Admissibility of copies

(2) Any copy made as provided in subsection 1 and purporting to be certified by an inspector is admissible in evidence in any action, proceeding or prosecution as *prima facie* proof of the original.

Investigations by order of Minister

11. The Minister may by order appoint a person to make an investigation into any matter to which this Act applies as may be specified in the Minister's order and the person appointed shall report the result of his investigation to the Minister and, for the purposes of the investigation, the person making it has the powers of a commission under Part II of *The Public Inquiries Act, 1971*, which Part applies to such investigation as if it were an inquiry under that Act.

1971, c. 49

Investigation by Director

12.—(1) Where, upon a statement made under oath, the Director believes on reasonable and probable grounds that any person has,

(*a*) contravened any of the provisions of this Act or the regulations; or

(*b*) committed an offence under the *Criminal Code* (Canada) or under the law of any jurisdiction that is relevant to his fitness for licensing under this Act,

R.S.C. 1970, c. C-34

the Director may by order appoint one or more persons to make an investigation to ascertain whether such a contravention of the Act or regulation or the Commission of such an offence has occurred, and the person appointed shall report the result of his investigation to the Director.

Powers of investigator

(2) For purposes relevant to the subject-matter of an investigation under this section, the person appointed to make the investigation may inquire into and examine the affairs of the person in respect of whom the investigation is being made and may,

(*a*) upon production of his appointment, enter at any reasonable time the business premises of such person and examine books, papers, documents and things relevant to the subject-matter of the investigation; and

(*b*) inquire into negotiations, transactions, loans, borrowings made by or on behalf of or in relation to such person and into property, assets or things owned, acquired or alienated in whole or in part by him or any person acting on his behalf that are relevant to the subject-matter of the investigation,

and for the purposes of the inquiry, the person making the investigation has the powers of a commission under Part II of *The Public Inquiries Act, 1971*, which Part applies to such inquiry as if it were an inquiry under that Act.

1971, c. 49

Obstruction of investigator

(3) No person shall obstruct a person appointed to make an investigation under this section or withhold from him or conceal or destroy any books, papers, documents or things relevant to the subject-matter of the investigation.

Search warrant

(4) Where a provincial judge is satisfied, upon an *ex parte* application by the person making an investigation under this section, that the investigation has been ordered and that such person has been appointed to make it and that there is reasonable ground for believing there are in any building, dwelling, receptacle or place any books, papers, documents or things relating to the person whose affairs are being investigated and to the subject-matter of the investigation, the provincial judge may, whether or not an inspection has been made or attempted under clause *a* of subsection 2, issue an order authorizing the person making the investigation, together with such police officer or officers as he calls upon to assist him, to enter and search, if necessary by force, such building, dwelling, receptacle or place for such books, papers, documents or things and to examine them, but every such entry and search shall be made between sunrise and sunset unless the provincial judge, by the order, authorizes the person making the investigation to make the search at night.

Removal of books, etc.

(5) Any person making an investigation under this section may, upon giving a receipt therefor, remove any books,

papers, documents or things examined under clause *a* of subsection 2 or subsection 4 relating to the person whose affairs are being investigated and to the subject-matter of the investigation for the purpose of making copies of such books, papers or documents, but such copying shall be carried out with reasonable dispatch and the books, papers or documents in question shall be promptly thereafter returned to the person whose affairs are being investigated.

Admissibility of copies

(6) Any copy made as provided in subsection 5 and certified to be a true copy by the person making the investigation is admissible in evidence in any action, proceeding or prosecution as *prima facie* proof of the original book, paper or document and its contents.

Appointment of experts

(7) The Minister or Director may appoint any expert to examine books, papers, documents or things examined under clause *a* of subsection 2 or under subsection 4.

Matters confidential

13.—(1) Every person employed in the administration of this Act, including any person making an inquiry, inspection or an investigation under section 8, 9, 10, 11 or 12, shall preserve secrecy with respect to all matters that come to his knowledge in the course of his duties, employment, inquiry, inspection or investigation and shall not communicate any such matters to any other person except,

(*a*) as may be required in connection with the administration of this Act and the regulations or any proceedings under this Act or the regulations; or

(*b*) to his counsel; or

(*c*) with the consent of the person to whom the information relates.

Testimony in civil suit

(2) No person to whom subsection 1 applies shall be required to give testimony in any civil suit or proceeding with regard to information obtained by him in the course of his duties, employment, inquiry, inspection or investigation except in a proceeding under this Act or the regulations.

Report

14. Where, upon the report of an investigation made under subsection 1 of section 13, it appears to the Director that a person may have,

(*a*) contravened any of the provisions of this Act or the regulations; or

R.S.C. 1970, c. C-34

(*b*) committed an offence, under the *Criminal Code* (Canada) or under the law of any jurisdiction, that is relevant to his fitness for licensing under this Act,

the Director shall send a full and complete report of the investigation, including the report made to him, any transcript or evidence and any material in the possession of the Director relating thereto, to the Minister.

Order to refrain from dealing with assets

15.—(1) Where,

(*a*) an investigation of any person has been ordered under section 13; or

(*b*) criminal proceedings or proceedings in relation to a contravention of any Act or regulation are about to be or have been instituted against a person that are connected with or arise out of the business in respect of which such person is registered,

the Director, if he believes it advisable for the protection of clients or customers of the person referred to in clause *a* or *b*, may, in writing or by telegram, direct any person having on deposit or under control or for safekeeping any assets or trust funds of the person referred to in clause *a* or *b* to hold such assets or trust funds or direct the person referred to in clause *a* or *b* to refrain from withdrawing any such assets or trust funds from any person having any of them on deposit or under control or for safekeeping or to hold such assets or any trust funds of clients, customers or others in his possession or control in trust for any interim receiver, custodian, trustee, receiver or liquidator appointed under the *Bankruptcy Act* (Canada), *The Judicature Act*, *The Corporations Act*, *The Business Corporations Act* or the *Winding-up Act* (Canada), or until the Director revokes or the Tribunal cancels such direction or consents to the release of any particular assets or trust funds from the direction but, in the case of a bank, loan or trust company, the direction only applies to the office, branches or agencies thereof named in the direction.

R.S.O. 1970, cc. 228, 89, 53
R.S.C. 1970, cc. B-4, W-11

Bond in lieu

(2) Subsection 1 does not apply where the person referred to in clause *a* or *b* of subsection 1 files with the Director,

(*a*) a personal bond accompanied by collateral security;

(*b*) a bond of a guarantee company approved under *The Guarantee Companies Securities Act*; or

R.S.O. 1970, c. 196

(*c*) a bond of a guarantor, other than a guarantee company, accompanied by collateral security,

in such form, terms and amount as the Director determines.

(3) Any person in receipt of a direction given under subsection 1, if in doubt as to the application of the direction to any assets or trust funds, or in case of a claim being made thereto by a person not named in the direction, may apply to a judge or local judge of the Supreme Court who may direct the disposition of such assets or trust funds and may make such order as to costs as seems just. Application for direction

REGULATION OF PROFESSIONAL FUND-RAISING CORPORATIONS

16.—(1) Every professional fund-raising corporation shall keep a record sheet in the prescribed form and proper books and accounts with respect to his business as a professional fund-raising corporation. Books, etc., to be kept

(2) In addition to those records prescribed under subsection 1, every professional fund-raising corporation shall file with the Minister for each fund-raising event undertaken by the corporation a financial statement in the prescribed form showing the amount collected, the expenses of the campaign and the amount turned over to the non-profit organization for which the campaign was conducted. Idem

17.—(1) Every professional fund-raising corporation shall maintain an account designated as a trust account in a chartered bank, loan or trust company or Province of Ontario Savings Office in which shall be deposited all moneys that come into its hands in trust for other persons in connection with its business, and it shall at all times keep such moneys separate and apart from moneys belonging to itself or to the partnership, in the case of a partnership, and shall disburse such moneys only in accordance with the terms of the trust. Bank account

(2) Where a professional fund-raising corporation holds moneys in trust for a period of one year after the person for whom it is held first became entitled to payment of the moneys and such person cannot be located, the professional fund-raising corporation shall pay the moneys to the Treasurer of Ontario who shall pay the moneys to the person appearing to the Treasurer to be entitled thereto. Unclaimed trust moneys

18. Every professional fund-raising corporation shall be bonded in the form and manner as is prescribed in the regulations. Bonding

19. No professional fund-raising corporation shall charge an amount towards overhead in relation to direct expenses greater than that amount prescribed in the regulations. Overhead

Service

20.—(1) Any notice or order required to be given or served under this Act or the regulations is sufficiently given or served if delivered personally or sent by registered mail addressed to the person to whom delivery or service is required to be made at the latest address for service appearing on the records of the Ministry.

Where service deemed to be made

(2) Where service is made by registered mail, the service shall be deemed to be made on the third day after the day of mailing unless the person on whom service is being made establishes that he did not, acting in good faith, through absence, accident, illness or other cause beyond his control receive the notice or order until a later date.

Exception

(3) Notwithstanding subsections 1 and 2, the Tribunal may order any other method of service in respect of any matter before the Tribunal.

Restraining orders

21.—(1) Where it appears to the Director that any person does not comply with any provision of this Act, the regulations or an order made under this Act, notwithstanding the imposition of any penalty in respect of such non-compliance and in addition to any other rights he may have, the Director may apply to a judge of the High Court for an order directing such person to comply with such provision, and upon the application the judge may make such order or such other order as the judge thinks fit.

Appeal

(2) An appeal lies to the Supreme Court from an order made under subsection 1.

Offences

22.—(1) Every person who, knowingly,

(*a*) furnishes false information in any application under this Act or in any statement or return required to be furnished under this Act or the regulations;

(*b*) fails to comply with any order, direction or other requirement made under this Act; or

(*c*) contravenes any provision of this Act or the regulations,

and every director or officer of a corporation who knowingly concurs in such furnishing, failure or contravention is guilty of an offence and on summary conviction is liable to a fine not more than $2,000 or to imprisonment for a term of not more than one year, or to both.

Corporations

(2) Where a corporation is convicted of an offence under subsection 1, the maximum penalty that may be imposed upon the corporation is $25,000 and not as provided therein.

(3) No proceedings under this section shall be instituted except with the consent of the Minister. Consent of Minister

(4) No proceeding under clause *a* of subsection 1 shall be commenced more than one year after the facts upon which the proceeding is based first came to the knowledge of the Director. Limitation

(5) No proceeding under clause *b* or *c* of subsection 1 shall be commenced more than two years after the time when the subject-matter of the proceeding arose. Idem

23. The Lieutenant Governor in Council may make regulations, Regulations

(*a*) requiring and governing the books, accounts and records that shall be kept by licensed professional fund-raising corporations;

(*b*) prescribing the form of financial statements to be filed under subsection 2 of section 16;

(*c*) governing applications for a licence or renewal of a licence and prescribing terms and conditions of licences;

(*d*) prescribing the fees payable upon applications for licences and renewal of licences and any other fees in connection with the administration of this Act and the regulations;

(*e*) prescribing the practice and procedure upon investigations under sections 8 and 10;

(*f*) prescribing forms and providing for their use;

(*g*) prescribing further procedures respecting the conduct of matters coming before the Tribunal;

(*h*) prescribing the form and manner in which a professional fund-raising corporation shall be bonded;

(*i*) prescribing the amount which may be charged towards overhead in relation to direct expenses.

24. This Act comes into force on the day it receives Royal Assent. Commencement

25. This Act may be cited as *The Professional Fund-raising Corporations Control Act, 1974*. Short title

An Act to control
Professional Fund-raising Corporations

1st Reading

May 10th, 1974

2nd Reading

3rd Reading

MR. NEWMAN
(Windsor-Walkerville)

(*Private Member's Bill*)

1974

BILL 65 **Government Bill**

4TH SESSION, 29TH LEGISLATURE, ONTARIO
23 ELIZABETH II, 1974

An Act to amend The Municipal Elections Act, 1972

THE HON. J. WHITE
Treasurer of Ontario and Minister of Economics
and Intergovernmental Affairs

TORONTO
PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO

Explanatory Notes

General. Municipal elections were conducted in 1972 for the first time under the provisions of *The Municipal Elections Act, 1972*. The Bill contains a number of amendments the need for which was brought to light by the experience gained by municipal clerks and others in those elections.

Section 1. The definition presently refers to an election required to be held biennially under section 10; the word biennially is superfluous as section 10 requires elections to be held in every second year.

Section 2. The amendment adds a returning officer as one of the persons who must take an oath before entering on his duties under the Act.

Section 3. Complementary to section 4 of the Bill.

Section 4. The amendment makes it clear that any scrutineer may be required by the deputy returning officer to produce his appointment; presently, it is only scrutineers appointed by council who may be required to produce their appointments.

Section 5. Sections 12 and 13 of the Act are re-enacted to incorporate the following changes:

1. The period during which a person may qualify to be an elector is changed from the period of enumeration under section 18 to the period extending from the Tuesday following the first Monday in September to the second Tuesday in October. (See also the note to section 9 of the Bill shortening the period of enumeration).

2. A person who has not attained the age of eighteen years during the period of qualification but will attain that age on or before polling day is entitled to be an elector.

The new section 13*a* prohibits a judge of any court from voting in an election.

BILL 65 **1974**

An Act to amend The Municipal Elections Act, 1972

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Paragraph 31 of section 1 of *The Municipal Elections Act, 1972*, being chapter 95, is repealed and the following substituted therefor: s. 1, par. 31, re-enacted

31. "regular election" means an election required to be held under section 10 of this Act.

2. Subsection 7 of section 4 of the said Act is amended by inserting after "Every" in the first line "returning officer". s. 4 (7), amended

3. Subsection 2 of section 7 of the said Act is repealed. s. 7 (2), repealed

4. The said Act is amended by adding thereto the following section: s. 7a, enacted

7*a*. A person appointed as a scrutineer under section 6 or 7, before being admitted to a polling place shall, if so requested, produce and show his appointment to the deputy returning officer for the polling place. Production of appointment

5. Sections 12 and 13 of the said Act are repealed and the following substituted therefor: ss. 12, 13, re-enacted

12. A person is entitled to be an elector in a municipality if he is not disqualified under this or any other Act or otherwise prohibited by law from voting in the election and if, at any time during the period commencing on the Tuesday following the first Monday in September and ending on the second Tuesday in October in an election year, he, Electors, resident

(*a*) is a resident in such municipality;

(*b*) is a Canadian citizen or other British subject; and

(*c*) has attained the age of eighteen years or on or before polling day will attain the age of eighteen years.

Electors, non-resident

13. A person is entitled to be an elector in a municipality if he is not disqualified under this or any other Act or otherwise prohibited by law from voting in the election and is not resident in such municipality at any time during the period commencing on the Tuesday following the first Monday in September and ending on the second Tuesday in October in an election year, but at any time during such period, he,

(*a*) is the owner or tenant of land in the municipality or the spouse of such an owner or tenant;

(*b*) is a Canadian citizen or other British subject; and

(*c*) has attained the age of eighteen years or on or before polling day will attain the age of eighteen years.

Judges not qualified to vote

13*a*. No judge of any court is qualified to vote in any election.

s. 15 (*b*), amended

6. Clause *b* of section 15 of the said Act is amended by striking out "making complaints" in the ninth line and inserting in lieu thereof "filing applications".

s. 16 (3), re-enacted

7. Subsection 3 of section 16 of the said Act is repealed and the following substituted therefor:

Appointment to be filed

(3) Where a corporation entitled to appoint a nominee to vote on its behalf desires to vote on a proposed money by-law, it shall, not later than the last day for filing applications for the revision of a preliminary list as hereinafter provided, file with the clerk of the municipality an appointment in writing of a person to vote on a proposed money by-law as its nominee and on its behalf.

s. 17 (1), amended

8. Subsection 1 of section 17 of the said Act is amended by striking out "June" in the third line and inserting in lieu thereof "April".

s. 18, amended

9. Section 18 of the said Act is amended by striking out "second Tuesday of October" in the third line and inserting in lieu thereof "30th day of September" and by striking out "during such period" in the seventh line.

s. 21*a*, enacted

10. The said Act is further amended by adding thereto the following section:

Correction of list if manifest errors in it

21*a*. Where it is apparent to the clerk or the secretary of the school board that the list or part thereof delivered to him under section 21 is not in conformity with the require-

SECTION 6. To achieve uniformity of expression, references in the Act to a person "making complaints" for revision are changed to "filing applications" for revision.

SECTION 7. The re-enacted subsection changes the reference to "filing complaints" for revision to "filing applications" for revision. (See note to section 6 of the Bill).

SECTION 8. The date by which the clerk is to divide a municipality into polling subdivisions in an election year is advanced from June 1st to April 1st.

SECTION 9. Presently, the period during which an assessment commissioner is to conduct an enumeration for the purpose of preparing the preliminary list of electors in an election year is from the Tuesday following the first Monday in September to the second Tuesday in October; the effect of the amendment is to shorten the period by making it end instead on the 30th day of September.

SECTION 10. The section added empowers the clerk of a municipality or the secretary of a school board to correct gross or manifest errors in a preliminary list of electors delivered to him by the assessment commissioner, prior to causing the list to be printed.

SECTION 11. Consequential upon section 10 of the Bill, the re-enacted section has added to it a reference to any changes that may have been made under the new section 21*a* of the Act.

SECTION 12. The amendments provide for the following matters:

1. Presently, the clerk is empowered to fix the last filing day for revisions to the preliminary list of electors; the amendment will fix the last day as the second Friday preceding nomination day.

2. The reference to "filing complaints" for revision is changed to "filing applications" for revision. (See the note to section 6 of the Bill).

3. Presently, the clerk is to identify the preliminary list that he posts as being a preliminary list of all electors for the election; the amendment recognizes that a preliminary list may be posted for each polling subdivision, in which case, the clerk is to identify it as such.

ments for the polling subdivisions or that the list contains gross or manifest errors, the clerk or the secretary, as the case may be may, prior to the printing or reproduction of the list required under section 22, correct the list or part thereof and shall forthwith notify the assessment commissioner of such corrections, showing the appropriate assessment roll number against each such correction.

11. Section 22 of the said Act is repealed and the following substituted therefor: s. 22, re-enacted

22. Immediately after receipt of the list of electors delivered by the assessment commissioner under section 21, the clerk or secretary of the school board referred to in the said section 21, after making corrections, if any, under section 21*a*, shall cause the list to be printed or reproduced and such list shall be the preliminary list of electors. Printing of list

12.—(1) Clauses *a* and *c* of subsection 1 of section 23 of the said Act are repealed and the following substituted therefor: s. 23 (1) (*a*, *c*), re-enacted

(*a*) fix the places at which and the times when revision of the list will be undertaken;

. . . . .

(*c*) publish notice in a newspaper having general circulation in the municipality, of the date of the posting of the list, the last day for filing applications for revision of the list for the purpose of including names of electors who have not been included or of making additions or corrections to or deletions from the list, and the places and times at which the revision of the list will be undertaken and, where there is no such newspaper, the notice shall be published in such manner as the clerk may direct and shall be posted in at least two conspicuous places in the municipality.

(2) Subsection 2 of the said section 23 is amended by striking out "complaints" in the third line and inserting in lieu thereof "applications for revision". s. 23 (2), amended

(3) The said section 23 is amended by adding thereto the following subsection: s. 23, amended

(2*a*) The last day for the filing of applications for revision of the preliminary list shall be the second Friday preceding nomination day and such applications may be filed with the clerk during his normal office hours. Last day for filing applications for revision of preliminary list

s. 23 (3) (*a*, *d*), re-enacted

(4) Clauses *a* and *d* of subsection 3 of the said section 23 are repealed and the following substituted therefor:

(*a*) stating that the list is a preliminary list of all electors for the election or is a preliminary list of all electors for the polling subdivision, as the case may be, prepared as required by this Act;

. . . . .

(*d*) stating the last day for filing applications concerning such inclusions, additions, corrections or deletions.

s. 24, re-enacted

13. Section 24 of the said Act is repealed and the following substituted therefor:

Revision of list

24.—(1) The clerk or an assistant revising officer shall attend at the revision of the preliminary list and shall continue to do so from day to day or as required until all applications filed before the last day for filing applications for revision of the list have been disposed of.

When applications may be considered

(2) Notwithstanding that the time for filing applications for revision of the preliminary list under section 23 has not expired, the clerk may proceed to consider such applications as from time to time may be received and may determine and dispose of them.

s. 25 (1, 2), re-enacted

14. Subsections 1 and 2 of section 25 of the said Act are repealed and the following substituted therefor:

Application to enter name in list or correct information

(1) A person whose name has not been included in the preliminary list for a polling subdivision in a municipality or whose name has been included therein but the information relating to him set out therein is incorrect or whose name has been included therein as a non-resident and who is qualified to be an elector in more than one ward in the municipality may apply to the clerk or assistant revising officer of the municipality on or before the last day for filing applications for revision of the list to have his name included on the list or to have such information corrected or to have his name deleted from the list and to have it entered in the list of another ward in which he or his spouse is the owner or tenant of land.

Application and declaration

(2) Every person applying under this section shall sign an application in the prescribed form in which all the information shall be sufficiently filled in, either by the applicant personally or by the clerk or assistant revising officer at the applicant's request and shall declare that he understands

SECTION 13. The reference to "making complaints" for revision is changed to "filing applications" for revision. (See the note to section 6 of the Bill).

SECTION 14. Presently, a person may apply personally or by his agent to have his name entered on the preliminary list or to have the information in the list respecting him, corrected. The amendment provides that such a person must personally complete and sign the application form although the form may be filed on his behalf by his agent; the reference to "filing complaints" is changed to "filing applications". (See the note to section 6 of the Bill).

SECTION 15. The amendments to section 26 make the following changes:

1. The references to "complaints for revision" are changed to "applications for revision". (See the note to section 6 of the Bill).

2. Presently, where an application is made to delete the name of a person on the preliminary list, the clerk is required to notify the person concerning whom the application is made of the time of the hearing to consider the matter; the amendment will provide for notice as well to be given to the person making the application.

the effect of the statements in the application and that he is an elector entitled to have his name included on the list or to have the list corrected pursuant to his request before the clerk or assistant revising officer enters his name on the list or corrects the preliminary list, as the case may be.

(2*a*) An application made under this section and duly signed by the applicant may be filed by the applicant or by his agent on his behalf. **Application filed personally or by agent**

15.—(1) Subsection 1 of section 26 of the said Act is amended by striking out "complaints" in the third line and inserting in lieu thereof "applications" and by striking out "a complaint" in the fourth line and inserting in lieu thereof "an application". **s. 26 (1), amended**

(2) Subsections 2, 3, 4 and 5 of the said section 26 are repealed and the following substituted therefor: **s. 26 (2-5), re-enacted**

(2) The clerk, upon receipt of an application under this section, shall forthwith cause to be served personally on or sent by registered mail to the person concerning whom the application is made at the address given in the preliminary list and at such other address, if any, as may be mentioned in the application, a notice of hearing requiring such person to appear in person or by his representative on a day and at a time to be fixed in the notice. **Notice to person where name objected to**

(3) A copy of the application shall accompany a notice served or sent under subsection 2. **Copy of application to be served**

(4) The clerk shall notify the applicant of the time and place of the hearing. **Notice to applicant**

(5) On the day for the hearing fixed in a notice given under this section, the person filing the application shall attend before the clerk or assistant revising officer to establish the validity of such application and the clerk or assistant revising officer, after reviewing an explanation of the facts alleged and after hearing what is alleged by the person concerning whom the application was made or by his representative, may delete the name from the preliminary list if he is satisfied of the validity of the application. **Decision of clerk, etc.**

(6) Where a person concerning whom an application has been made under this section or his representative does not attend before the clerk or assistant revising officer on the day of hearing fixed in the notice and the clerk or assistant revising officer is satisfied that due notice of application has been given to the person or that he could not be found **Where person objected to does not appear**

and the registered notice could not be delivered, the clerk or assistant revising officer may delete the name of such person from the preliminary list of electors but shall not do so except upon evidence under oath which satisfies him that the name should not have been included in the list.

s. 28, re-enacted

16. Section 28 of the said Act is repealed and the following substituted therefor:

Statement of change

28. Upon determination of all applications for revision of the preliminary list of electors for a municipality filed on or before the last day for filing applications for revision thereof, the clerk shall compile a statement of inclusions in, additions and changes to and deletions from the list, showing the appropriate assessment roll number for each inclusion, addition, change and deletion, and shall send a certified copy of such statement to each person specified in subsections 4 and 5 of section 23.

s. 29 (2), amended

17. Subsection 2 of section 29 of the said Act is amended by inserting after "the" where it occurs the second time in the fifth line "money".

s. 31 (1, 2), re-enacted

18.—(1) Subsections 1 and 2 of section 31 of the said Act are repealed and the following substituted therefor:

Entry of name on list by D.R.O.

(1) If a person whose name is omitted from a polling list certified under section 29, at any time after preparation of the polling list and prior to the closing of the poll, satisfies the clerk of the municipality on oath that he was entitled to be an elector under section 12 or 13 and to have his name entered on the preliminary list for the municipality, the clerk may issue a certificate in the prescribed form authorizing the deputy returning officer for the proper polling subdivision to enter the name of the elector on the polling list for the subdivision and to permit such person to vote, but such vote must be cast before the closing of the poll.

Idem

(2) Where the name of a person is omitted from the polling list as finally revised and such person satisfies the clerk of the municipality on oath that he was under section 12 or 13 otherwise entitled to be an elector and to be entered on the preliminary list except that he was not a Canadian citizen or other British subject, if such person produces for the inspection of the clerk his certificate of naturalization or other conclusive evidence that he has become a Canadian citizen or other British subject, the clerk may issue a certificate authorizing the proper deputy returning officer to enter the name of such person on the polling list to entitle him to vote as if his name had been entered thereon before the list was revised.

SECTION 16. The reference to "complaints" for revision is changed to "applications" for revision. (See the note to section 6 of the Bill). A requirement that the clerk show the appropriate assessment roll number for each change to the preliminary list following revision is added.

SECTION 17. Tenants are, under certain circumstances, entitled to vote on money by-laws and the clerk is required to add after the name of a tenant on the preliminary list who is so qualified the words "Entitled to vote on the by-law". For clarification purposes, the words to be added by the clerk will, by the amendment, be "Entitled to vote on the money by-law".

SECTION 18.—Subsection 1. The re-enactment of subsections 1 and 2 is complementary to section 5 of the Bill; the existing reference to qualification during the period of enumeration is changed to a reference to qualification under section 12 or 13; because persons who will attain the age of eighteen years on or before polling day will now be entitled to be entered on the preliminary list, provision for such persons applying to be added to the list is no longer required.

Subsection 2. Corrects the omission of a reference.

Subsection 3. A requirement that the clerk include the appropriate assessment roll number in the certificate furnished to the assessment commissioner under subsection 4 is added. The provisions of subsections 5 and 6 are new.

SECTION 19.—Subsection 1. Provides that if nomination day would fall on November 11th, it shall instead be the following day.

Subsection 2. The re-enactment of subsection 2 of section 33 is complementary to the addition of the new subsection 1*a*.

Subsection 3. The subsection presently speaks of offices for which candidates may be nominated. It is re-enacted to refer more accurately to offices for which persons may be nominated as candidates.

SECTION 20. The amendments are similar in intent to those found in section 19 (3) of the Bill; and are intended to make it clear that a person does not attain the status of candidate until he is in fact nominated.

(2) Subsection 3 of the said section 31 is amended by adding at the end thereof "or 2". s. 31 (3), amended

(3) Subsection 4 of the said section 31 is repealed and the following substituted therefor: s. 31 (4), re-enacted

(4) The clerk shall furnish a copy of each certificate issued under this section, with the appropriate assessment roll number endorsed thereon, to the assessment commissioner. Copy to assessment Commissioner

(5) The deputy returning officer shall enter or cause to be entered in the column for remarks in the poll book opposite the name and residence of the person voting under the authority of a certificate issued under this section, the words "Voted under section 31 certificate". Entry in poll book

(6) The deputy returning officer shall enclose all certificates to which this section applies in one envelope. Certificates to be kept in separate envelope

19.—(1) Section 33 of the said Act is amended by adding thereto the following subsection: s. 33, amended

(1*a*) Where under subsection 1 nomination day would ordinarily be the 11th day of November, nomination day shall, instead, be Tuesday, the twentieth day before polling day. Nomination day not to be November 11th

(2) Subsections 2 and 3 of the said section 33 are repealed and the following substituted therefor: s. 33 (2, 3), re-enacted

(2) The period during which persons may be nominated as candidates in an election shall be the four days, or, if subsection 1*a* applies, the five days immediately preceding nomination day and until 5 o'clock in the afternoon of nomination day. Period for nomination

(3) The clerk shall publish at least six days prior to the commencement of the period in which nominations may be filed, notice of the time of commencement and closing of such period and of the offices for which persons may be nominated as candidates in the election in a newspaper having general circulation in the municipality and, where there is no newspaper having a general circulation in the municipality, the notice shall be published in such manner as the clerk may direct and shall be posted in at least two conspicuous places in the municipality. Notice of nomination period

20.—(1) Subsection 1 of section 34 of the said Act is repealed and the following substituted therefor: s. 34 (1), re-enacted

How nominated

(1) A person may be nominated as a candidate for an office by filing in the office of the clerk, during the normal office hours of the clerk within the period in which nominations may be filed, a nomination paper in prescribed form which,

(*a*) shall be signed by at least ten electors whose names are entered in the polling lists of electors entitled to vote in an election to such office;

(*b*) shall state the name, occupation and address of the person nominated in such manner as will identify him and the office for which he is nominated; and

(*c*) shall state the name and address of each elector signing the nomination paper and, where the office for which the person is nominated is a member of a school board, that such nominator is a public school elector or a separate school elector, as the fact is.

s. 34 (3), amended

(2) Subsection 3 of the said section 34 is amended by striking out "candidate" in the first line and inserting in lieu thereof "person".

s. 34 (4), amended

(3) Subsection 4 of the said section 34 is amended by striking out "candidate" in the first line and inserting in lieu thereof "person".

s. 35 (2), amended

21.—(1) Subsection 2 of section 35 of the said Act is amended by striking out "for a candidate for an office" in the first line.

s. 35 (4), amended

(2) Subsection 4 of the said section 35 is amended by striking out "the nomination paper for a candidate for an office" in the first line and inserting in lieu thereof "a nomination paper", so that the subsection, exclusive of the clauses, shall read as follows:

Where filed on nomination day

(4) Where a nomination paper is filed in the office of a clerk on nomination day and before the time fixed for the close of nominations,

. . . . .

s. 35 (6), amended

(3) Subsection 6 of the said section 35 is amended by striking out "candidates" in the fourth line and inserting in lieu thereof "persons".

s. 39 (2), amended

22. Subsection 2 of section 39 of the said Act is amended by inserting after "poll" in the second line "and notice of the last day for making application to the clerk for a certificate

SECTION 21. Similar in intent to section 20 of the Bill.

SECTION 22. Where a poll is to be held, the clerk is required to publish notice of the time for the holding of the poll; the amendment will require the clerk to include in the notice the last day for applying to obtain a certificate to vote by proxy.

SECTION 23.—Subsection 1. The subsection requires that votes shall be given by ballot "in prescribed form". The words being deleted are superfluous as section 41 of the Act requires the clerk to prepare and have printed ballots in the prescribed form.

Subsection 2. Presently, a municipality may authorize the use of voting machines, subject to the approval of the Minister. The authority is broadened to include voting recorders and other voting devices and the requirement of the Minister's approval is removed. Where such machines, recorders or devices are used, the Minister is to prescribe the procedures to be followed.

SECTION 24. Self-explanatory.

SECTION 25. The re-enactment of subsection 7 adds the circle for marking the ballot, the instructions referred to in subsection 8 and any lines on the ballot as elements of the ballot that are to be in the same colour as the names and occupations of the candidates.

Subsection 8 presently provides that a ballot may contain instructions as to the number of candidates for which a voter may vote. The re-enactment will make mandatory the inclusion of such instructions and adds the requirement that the name of the office for which the election is being held be included in the instructions.

SECTION 26. The effect of the amendment is to require that a separate set of ballots be used in an election for the office set out in the added subclause.

to vote by proxy" and by inserting after "publishing" in the fourth line "the notice".

23.—(1) Subsection 1 of section 40 of the said Act is amended by striking out "in prescribed form" in the second line. s. 40 (1), amended

(2) Subsection 2 of the said section 40 is repealed and the following substituted therefor: s. 40 (2), re-enacted

(2) In place of using ballot papers under this Act, the council of a municipality may, by by-law passed on or before the 1st day of April in an election year, authorize the use at the election in that year of voting machines, voting recorders or other voting devices, and a copy of any such by-law shall be forwarded by the clerk of the municipality to the Minister forthwith after it is passed. Voting machines, etc.

(3) Where a municipality authorizes the use of voting machines, voting recorders or other voting devices, the Minister shall, by order, provide for all procedures which may be necessary to implement the use of such machines, recorders or devices and the municipality shall comply with the provisions of the order. Minister's order

24. In the year 1974, the date on or before which a by-law under subsection 2 of section 40, as re-enacted by section 23 of this Act, may be passed is the 15th day of June. Application in 1974

25. Subsections 7 and 8 of section 41 of the said Act are repealed and the following substituted therefor: s. 41 (7, 8), re-enacted

(7) All ballots for election to the same office shall be of the same description and as nearly alike as possible, and the names and occupations, and the addresses if given, of the candidates, the circle or circular space, the instructions referred to in subsection 8, and any lines on the ballot shall be in one colour and the remainder of the face of the ballot shall be another colour, but different colours may be used for ballots to be used for election to different offices. Ballots for same office to be alike

(8) A ballot shall contain instructions as to the number of candidates for which a voter may vote and the name of the office for which the election is being held. Number of candidates and name of office

26. Clause *a* of subsection 7 of section 42 of the said Act is amended by striking out "or" at the end of subclause iii, by adding "or" at the end of subclause iv and by adding thereto the following subclause: s. 42 (7) (*a*), amended

(v) member of the council of both an area municipality and a regional municipality.

s. 43 (1), amended

27. Subsection 1 of section 43 of the said Act is amended by striking out "and approved by the Minister" in the second and third lines.

s. 45 (1), re-enacted

28.—(1) Subsection 1 of section 45 of the said Act is repealed and the following substituted therefor:

Polling places in institutions

(1) Where in a municipality there is situate a hospital or other institution for the reception, treatment or vocational training of persons who have served or are serving in the Canadian Forces or the armed forces of any member of the Commonwealth, or who are blind or deaf, a Workmen's Compensation hospital or a home for the aged, a polling place shall be provided in such institution or upon the premises, and may be provided in a nursing home or other institution of twenty beds or more in which chronically ill or infirm persons reside, and for the purpose of polling, the institution shall be deemed to be a polling place, and every person resident in the institution who is entered in the polling list is entitled to vote at such polling place only.

s. 45 (3), repealed

(2) Subsection 3 of the said section 45 is repealed.

s. 54, amended

29. Section 54 of the said Act is amended by adding thereto the following subsection:

Copy to clerk and assessment commissioner

(3) The deputy returning officer shall furnish a copy of each such declaration to the clerk who shall, in turn, after endorsing thereon the appropriate assessment roll number, furnish it forthwith to the assessment commissioner.

s. 56 (1), repealed

30.—(1) Subsection 1 of section 56 of the said Act is repealed.

s. 56 (2), amended

(2) Subsection 2 of the said section 56 is amended by inserting after "oath" in the second line "under section 53 or 55".

s. 63, amended

31. Section 63 of the said Act is amended by inserting after "The" where it occurs the first time in the first line "returning officer, the assistant returning officer, the".

s. 64 (1), re-enacted

32.—(1) Subsection 1 of section 64 of the said Act is repealed and the following substituted therefor:

Advance poll

(1) The clerk shall hold an advance poll in accordance with this section on the Saturday nine days before polling day for the purpose of receiving votes of electors who expect to be unable to vote on polling day in the polling subdivisions for which their names appear on the polling lists or who are entitled to vote either under a certificate issued by the clerk under section 31 or who become entitled to vote under section 54.

SECTION 27. The subsection now permits the use of composite ballots if the Minister approves; the amendment removes the requirement of Ministerial approval.

SECTION 28.—Subsection 1. The subsection as re-enacted will permit the clerk, at his discretion, to provide a polling place in a nursing home or other institution of twenty beds or more in which chronically ill or infirm persons reside; presently, it is mandatory that a polling place be provided in such an institution.

Subsection 2. The subsection being repealed permitted the closing of the poll in an institution when everyone whose name is entered on the polling list has voted; such a polling place will now be required to remain open during regular polling hours.

SECTION 29. Section 54 of the Act permits a person to apply to the deputy returning officer at a polling place to have his name entered on the list, to receive a ballot and vote if he takes a declaration and otherwise satisfies the deputy returning officer of his entitlement; the subsection added will require the information respecting such a person to be forwarded to the assessment commissioner.

SECTION 30.—Subsection 1. The subsection being repealed permits an elector who is required to take an oath to select any one of the prescribed forms of oath; the provision is unnecessary as one standard form of oath is prescribed.

Subsection 2. Subsection 2 of section 56 of the Act provides that only certain inquiry shall be made of an elector who is required to take the oath; the amendment identifies the oath that is referred to.

SECTION 31. The effect of the amendment is to add the returning officer and the assistant returning officer to the list of persons who are allowed to remain in a polling place during the time the poll is open and at the counting of the votes.

SECTION 32.—Subsections 1 and 2. The existing provisions respecting advance polls are that two be held, one on the Monday and one on the Saturday seven days and two days preceding polling day, respectively. The re-enactment will make mandatory the holding of one advance poll on the Saturday nine days preceding election day. Additional advance polls may be held at the option of the municipality.

Subsection 3. The requirement that a person take a declaration before voting at an advance poll is deleted as unnecessary.

SECTION 33.—Subsection 1. The effect of the amendment is to permit a person voting under the authority of a clerk's certificate to vote by proxy.

Subsection 2. A parent and a grandparent are added to the list of persons who may act as voting proxy for more than one person voting by proxy.

Subsection 3. The subsection now requires the clerk to take evidence on oath as to the right of the person appointing a voting proxy to vote in the polling subdivision and as to the right of the voting proxy to act for the person appointing him. The amendment will leave it in the discretion of the clerk as to whether he requires evidence under oath.

SECTION 34. The effect of the amendment is to exempt copies of declarations taken by electors at polling places whose names are not on the polling list from the provisions requiring election documents to be placed in the ballot box by the deputy returning officer.

SECTION 35. A municipality may require a recount or final addition following an election where it deems it to be in the public interest; the amendment will permit school boards to similarly require a recount or final addition.

SECTION 36. Complementary to section 35 of the Bill; the effect of the amendment is to require a school board to pay the costs of a recount where the board has initiated the proceedings.

SECTION 37. The subsection presently provides that no person shall be entitled to inspect any ballot or other document relating to an election in the custody of the clerk except under a judge's order. The re-enactment narrows the scope of the restriction to the contents of a ballot box.

(1*a*) The council of a municipality may by by-law passed before nomination day provide for the holding by the clerk of additional advance polls for the same purposes as provided in subsection 1. Additional advance poll

(2) Subsection 2 of the said section 64 is amended by striking out "of the two days" in the second and third lines and inserting in lieu thereof "day". s. 64 (2), amended

(3) Subsection 4 of the said section 64 is repealed. s. 64 (4), repealed

33.—(1) Subsection 1 of section 65 of the said Act is amended by inserting after "subdivision" in the second line "or who has obtained a certificate under section 31 entitling him to vote". s. 65 (1), amended

(2) Subsection 3 of the said section 65 is amended by inserting after "the" in the third line "parent, grandparent". s. 65 (3), amended

(3) Subsection 6 of the said section 65 is amended by striking out "shall" in the first line and inserting in lieu thereof "may". s. 65 (6), amended

34. Subsection 1 of section 76 of the said Act is amended by striking out "and" at the end of clause *b*, by adding "and" at the end of clause *c* and by adding thereto the following clause: s. 76 (1), amended

(*d*) the copies of the declaration required to be furnished to the clerk under subsection 3 of section 54.

35. Subsection 2 of section 81 of the said Act is amended by striking out "the municipality whose clerk was the returning officer" in the thirteenth and fourteenth lines and inserting in lieu thereof "a municipality or a school board" and by striking out "thereof" in the eighteenth line and inserting in lieu thereof "who made the declaration". s. 81 (2), amended

36.—(1) Subsection 3 of section 84 of the said Act is amended by adding at the end thereof "except where the recount or final addition has been held at the instance of a school board, in which case the disbursements made by the clerk shall be paid by the board". s. 84 (3), amended

(2) Subsection 6 of the said section 84 is amended by adding at the end thereof "except where the recount or final addition has been held at the instance of a school board, in which case the expenses shall be paid by the board". s. 84 (6), amended

37. Subsection 1 of section 88 of the said Act is repealed and the following substituted therefor: s. 88 (1), re-enacted

Inspection of ballots

(1) No person shall be allowed to inspect the contents of a ballot box in the custody of the clerk except under the order of a judge.

s. 90 (4), re-enacted

38.—(1) Subsection 4 of section 90 of the said Act is repealed and the following substituted therefor:

List of electors

(4) Unless a new preliminary list of electors has been furnished by the assessment commissioner under subsection 5, the preliminary list to be used for preparation of the polling list for a new election shall be the polling list used at the last regular election, which shall be subject to revision as if it were a preliminary list of electors and sections 22 to 28 apply *mutatis mutandis* to the printing or reproduction of the list and to the revision of the list, subject to the following rules:

1. Where a new election is required under clause *a* of section 36 or subsection 3 of section 38, the period during which a person may qualify as an elector for the office to be elected shall be the period of qualification specified under section 12 or 13 and the period following such qualification period terminating on the Thursday following the day on which the polling for the last regular election was held.

2. Where a new election is required under section 109, the period during which a person may qualify as an elector for the office to be elected shall be the period of qualification specified under section 12 or 13 and the period following such qualification period terminating on the date of the receipt by the clerk of the municipality of the copy of the judgment under subsection 6 of section 109.

3. Where a vacancy otherwise occurs and the council of the municipality or a school board for which the clerk is required to hold elections requires an election to be held to fill the vacancy, the period during which an elector may qualify as an elector for the office to be elected shall be the period of qualification specified under section 12 or 13 and the period following such qualification period terminating on the date of the passing of the by-law by council or the adoption of the resolution by the school board, as the case may be.

4. Where a by-law or question is to be submitted to the electors, the period during which a person may qualify as an elector entitled to vote on the by-law

SECTION 38.—Subsection 1. The re-enactment provides a more detailed set of rules relating to the qualification period for electors in the case where a new election is held. The following situations are dealt with by the four paragraphs of subsection 4:

1. Where the election is required by the death of a candidate before the close of the poll or where the number of candidates elected to an office is less than the number required.

2. Where the election is required by reason of a successful candidate being found guilty of bribery or a corrupt practice and the court declares the election void.

3. Where a vacancy occurs and the municipality or school board requires an election to be held to fill the vacancy.

4. Where a by-law or question is to be submitted to the electors other than at a regular election under an order made by the Ontario Municipal Board.

Subsection 2. The added subsection 5*a* provides that the preliminary list for a new election is subject to the usual certification procedures by the clerk and to the entry of names thereon. The added subsection 8 provides for a partial revision only of the preliminary list in the circumstances indicated.

SECTION 39. The subsection is re-enacted to embrace the situation where a member disclaims his right to hold office on a local board. In such case, the clerk shall communicate it to the secretary of the local board affected.

SECTION 40. The section provides procedures relating to removal from office and to have the right of a person to sit in a council determined; the amendment extends the application of those procedures to members of local boards and trustees of police villages.

SECTION 41. The section as re-enacted removes the power of the Minister to make regulations prescribing rules for the use of voting machines. See the note to subsection 2 of section 23 of the Bill where voting machines, voting recorders and other voting devices are authorized and the Minister empowered to provide by order procedures necessary to implement their use.

or question, as the case may be, shall be the period of qualification specified under section 12 or 13 and the period following such qualification period terminating on the date of the order of the Ontario Municipal Board given under section 262 of *The Municipal Act*. R.S.O. 1970, c. 284

(2) The said section 90 is amended by adding thereto the following subsections: s. 90, amended

(5*a*) The preliminary list for a new election, when revised, shall be subject to certification by the clerk under section 29 and to entry of names in the list under sections 31 and 54. Certification of list

. . . . .

(8) If election to the office for which a new election is required is to be by ward or other form of division of the municipality it is necessary to revise only that portion of the preliminary list applicable to such ward or other part of the municipality. Revision of partial list

39. Subsection 1 of section 115 of the said Act is amended by adding at the end thereof "or to the secretary of the local board, as the case requires", so that the subsection shall read as follows: s. 115 (1), amended

(1) A person disclaiming shall deliver a duplicate of his disclaimer to the clerk of the municipality, and the clerk shall forthwith communicate it to the council or to the secretary of the local board, as the case requires. Duplicate of disclaimer to clerk

40. Section 116 of the said Act is amended by inserting after "council" in the fourth line "or as trustee of a police village or as member of a local board, as the case may be". s. 116, amended

41. Section 117 of the said Act is repealed and the following substituted therefor: s. 117, re-enacted

117. The Minister may make regulations prescribing forms for the purposes of this Act. Regulations

42.—(1) This Act, except section 8, comes into force on the day it receives Royal Assent. Commencement

(2) Section 8 comes into force on the 1st day of January, 1975. Idem

43. This Act may be cited as *The Municipal Elections Amendment Act, 1974*. Short title

An Act to amend
The Municipal Elections Act, 1972

1st Reading

May 10th, 1974

2nd Reading

3rd Reading

THE HON. J. WHITE
Treasurer of Ontario and
Minister of Economics and
Intergovernmental Affairs

(*Government Bill*)

1974

BILL 65 **Government Bill**

4TH SESSION, 29TH LEGISLATURE, ONTARIO
23 ELIZABETH II, 1974

An Act to amend The Municipal Elections Act, 1972

THE HON. J. WHITE
Treasurer of Ontario and Minister of Economics
and Intergovernmental Affairs

(Reprinted as amended by the Committee of the Whole House)

TORONTO
PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO

Explanatory Notes

General. Municipal elections were conducted in 1972 for the first time under the provisions of *The Municipal Elections Act, 1972*. The Bill contains a number of amendments the need for which was brought to light by the experience gained by municipal clerks and others in those elections.

Section 1. The definition presently refers to an election required to be held biennially under section 10; the word biennially is superfluous as section 10 requires elections to be held in every second year.

Section 2. The amendment adds a returning officer as one of the persons who must take an oath before entering on his duties under the Act.

Section 3. Complementary to section 4 of the Bill.

Section 4. The amendment makes it clear that any scrutineer may be required by the deputy returning officer to produce his appointment; presently, it is only scrutineers appointed by council who may be required to produce their appointments.

Section 5. Sections 12 and 13 of the Act are re-enacted to incorporate the following changes:

1. The period during which a person may qualify to be an elector is changed from the period of enumeration under section 18 to the period extending from the Tuesday following the first Monday in September to the second Tuesday in October. (See also the note to section 9 of the Bill shortening the period of enumeration).

2. A person who has not attained the age of eighteen years during the period of qualification but will attain that age on or before polling day is entitled to be an elector.

The new section 13*a* prohibits a judge of any court from voting in an election.

BILL 65 **1974**

An Act to amend The Municipal Elections Act, 1972

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Paragraph 31 of section 1 of *The Municipal Elections Act, 1972*, being chapter 95, is repealed and the following substituted therefor: s. 1, par. 31, re-enacted

31. "regular election" means an election required to be held under section 10 of this Act.

2. Subsection 7 of section 4 of the said Act is amended by inserting after "Every" in the first line "returning officer". s. 4 (7), amended

3. Subsection 2 of section 7 of the said Act is repealed. s. 7 (2), repealed

4. The said Act is amended by adding thereto the following section: s. 7a, enacted

7a. A person appointed as a scrutineer under section 6 or 7, before being admitted to a polling place shall, if so requested, produce and show his appointment to the deputy returning officer for the polling place. Production of appointment

5. Sections 12 and 13 of the said Act are repealed and the following substituted therefor: ss. 12, 13, re-enacted

12. A person is entitled to be an elector in a municipality if he is not disqualified under this or any other Act or otherwise prohibited by law from voting in the election and if, at any time during the period commencing on the Tuesday following the first Monday in September and ending on the second Tuesday in October in an election year, he, Electors, resident

(*a*) is a resident in such municipality;

(*b*) is a Canadian citizen or other British subject; and

(*c*) has attained the age of eighteen years or on or before polling day will attain the age of eighteen years.

Electors, non-resident

13. A person is entitled to be an elector in a municipality if he is not disqualified under this or any other Act or otherwise prohibited by law from voting in the election and is not resident in such municipality at any time during the period commencing on the Tuesday following the first Monday in September and ending on the second Tuesday in October in an election year, but at any time during such period, he,

(*a*) is the owner or tenant of land in the municipality or the spouse of such an owner or tenant;

(*b*) is a Canadian citizen or other British subject; and

(*c*) has attained the age of eighteen years or on or before polling day will attain the age of eighteen years.

Judges not qualified to vote

13*a*. No judge of any court is qualified to vote in any election.

s. 15 (*b*), amended

6. Clause *b* of section 15 of the said Act is amended by striking out "making complaints" in the ninth line and inserting in lieu thereof "filing applications".

s. 16 (3), re-enacted

7. Subsection 3 of section 16 of the said Act is repealed and the following substituted therefor:

Appointment to be filed

(3) Where a corporation entitled to appoint a nominee to vote on its behalf desires to vote on a proposed money by-law, it shall, not later than the last day for filing applications for the revision of a preliminary list as hereinafter provided, file with the clerk of the municipality an appointment in writing of a person to vote on a proposed money by-law as its nominee and on its behalf.

s. 17 (1), amended

8. Subsection 1 of section 17 of the said Act is amended by striking out "June" in the third line and inserting in lieu thereof "April".

s. 18, amended

9. Section 18 of the said Act is amended by striking out "second Tuesday of October" in the third line and inserting in lieu thereof "30th day of September" and by striking out "during such period" in the seventh line.

s. 21*a*, enacted

10. The said Act is further amended by adding thereto the following section:

Correction of list if manifest errors in it

21*a*. Where it is apparent to the clerk or the secretary of the school board that the list or part thereof delivered to him under section 21 is not in conformity with the require-

SECTION 6. To achieve uniformity of expression, references in the Act to a person "making complaints" for revision are changed to "filing applications" for revision.

SECTION 7. The re-enacted subsection changes the reference to "filing complaints" for revision to "filing applications" for revision. (See note to section 6 of the Bill).

SECTION 8. The date by which the clerk is to divide a municipality into polling subdivisions in an election year is advanced from June 1st to April 1st.

SECTION 9. Presently, the period during which an assessment commissioner is to conduct an enumeration for the purpose of preparing the preliminary list of electors in an election year is from the Tuesday following the first Monday in September to the second Tuesday in October; the effect of the amendment is to shorten the period by making it end instead on the 30th day of September.

SECTION 10. The section added empowers the clerk of a municipality or the secretary of a school board to correct gross or manifest errors in a preliminary list of electors delivered to him by the assessment commissioner, prior to causing the list to be printed.

SECTION 11. Consequential upon section 10 of the Bill, the re-enacted section has added to it a reference to any changes that may have been made under the new section 21*a* of the Act.

SECTION 12. The amendments provide for the following matters:

1. Presently, the clerk is empowered to fix the last filing day for revisions to the preliminary list of electors; the amendment will fix the last day as the second Friday preceding nomination day.

2. The reference to "filing complaints" for revision is changed to "filing applications" for revision. (See the note to section 6 of the Bill).

3. Presently, the clerk is to identify the preliminary list that he posts as being a preliminary list of all electors for the election; the amendment recognizes that a preliminary list may be posted for each polling subdivision, in which case, the clerk is to identify it as such.

ments for the polling subdivisions or that the list contains gross or manifest errors, the clerk or the secretary, as the case may be may, prior to the printing or reproduction of the list required under section 22, correct the list or part thereof and shall forthwith notify the assessment commissioner of such corrections, showing the appropriate assessment roll number against each such correction.

11. Section 22 of the said Act is repealed and the following substituted therefor: s. 22, re-enacted

22. Immediately after receipt of the list of electors delivered by the assessment commissioner under section 21, the clerk or secretary of the school board referred to in the said section 21, after making corrections, if any, under section 21*a*, shall cause the list to be printed or reproduced and such list shall be the preliminary list of electors. Printing of list

12.—(1) Clauses *a* and *c* of subsection 1 of section 23 of the said Act are repealed and the following substituted therefor: s. 23 (1) (*a*, *c*), re-enacted

(*a*) fix the places at which and the times when revision of the list will be undertaken;

. . . . .

(*c*) publish notice in a newspaper having general circulation in the municipality, of the date of the posting of the list, the last day for filing applications for revision of the list for the purpose of including names of electors who have not been included or of making additions or corrections to or deletions from the list, and the places and times at which the revision of the list will be undertaken and, where there is no such newspaper, the notice shall be published in such manner as the clerk may direct and shall be posted in at least two conspicuous places in the municipality.

(2) Subsection 2 of the said section 23 is amended by striking out "complaints" in the third line and inserting in lieu thereof "applications for revision". s. 23 (2), amended

(3) The said section 23 is amended by adding thereto the following subsection: s. 23, amended

(2*a*) The last day for the filing of applications for revision of the preliminary list shall be the second Friday preceding nomination day and such applications may be filed with the clerk during his normal office hours. Last day for filing applications for revision of preliminary list

s. 23 (3) (*a*, *d*), re-enacted

(4) Clauses *a* and *d* of subsection 3 of the said section 23 are repealed and the following substituted therefor:

(*a*) stating that the list is a preliminary list of all electors for the election or is a preliminary list of all electors for the polling subdivision, as the case may be, prepared as required by this Act;

. . . . .

(*d*) stating the last day for filing applications concerning such inclusions, additions, corrections or deletions.

s. 24, re-enacted

13. Section 24 of the said Act is repealed and the following substituted therefor:

Revision of list

24.—(1) The clerk or an assistant revising officer shall attend at the revision of the preliminary list and shall continue to do so from day to day or as required until all applications filed before the last day for filing applications for revision of the list have been disposed of.

When applications may be considered

(2) Notwithstanding that the time for filing applications for revision of the preliminary list under section 23 has not expired, the clerk may proceed to consider such applications as from time to time may be received and may determine and dispose of them.

s. 25 (1, 2), re-enacted

14. Subsections 1 and 2 of section 25 of the said Act are repealed and the following substituted therefor:

Application to enter name in list or correct information

(1) A person whose name has not been included in the preliminary list for a polling subdivision in a municipality or whose name has been included therein but the information relating to him set out therein is incorrect or whose name has been included therein as a non-resident and who is qualified to be an elector in more than one ward in the municipality may apply to the clerk or assistant revising officer of the municipality on or before the last day for filing applications for revision of the list to have his name included on the list or to have such information corrected or to have his name deleted from the list and to have it entered in the list of another ward in which he or his spouse is the owner or tenant of land.

Application and declaration

(2) Every person applying under this section shall sign an application in the prescribed form in which all the information shall be sufficiently filled in, either by the applicant personally or by the clerk or assistant revising officer at the applicant's request and shall declare that he understands

SECTION 13. The reference to "making complaints" for revision is changed to "filing applications" for revision. (See the note to section 6 of the Bill).

SECTION 14. Presently, a person may apply personally or by his agent to have his name entered on the preliminary list or to have the information in the list respecting him, corrected. The amendment provides that such a person must personally complete and sign the application form although the form may be filed on his behalf by his agent, the reference to "filing complaints" is changed to "filing applications". (See the note to section 6 of the Bill).

SECTION 15. The amendments to section 26 make the following changes:

1. The references to "complaints for revision" are changed to "applications for revision". (See the note to section 6 of the Bill).

2. Presently, where an application is made to delete the name of a person on the preliminary list, the clerk is required to notify the person concerning whom the application is made of the time of the hearing to consider the matter; the amendment will provide for notice as well to be given to the person making the application.

the effect of the statements in the application and that he is an elector entitled to have his name included on the list or to have the list corrected pursuant to his request before the clerk or assistant revising officer enters his name on the list or corrects the preliminary list, as the case may be.

(2*a*) An application made under this section and duly signed by the applicant may be filed by the applicant or by his agent on his behalf. **Application filed personally or by agent**

15.—(1) Subsection 1 of section 26 of the said Act is amended by striking out "complaints" in the third line and inserting in lieu thereof "applications" and by striking out "a complaint" in the fourth line and inserting in lieu thereof "an application". **s. 26 (1), amended**

(2) Subsections 2, 3, 4 and 5 of the said section 26 are repealed and the following substituted therefor: **s. 26 (2-5), re-enacted**

(2) The clerk, upon receipt of an application under this section, shall forthwith cause to be served personally on or sent by registered mail to the person concerning whom the application is made at the address given in the preliminary list and at such other address, if any, as may be mentioned in the application, a notice of hearing requiring such person to appear in person or by his representative on a day and at a time to be fixed in the notice. **Notice to person where name objected to**

(3) A copy of the application shall accompany a notice served or sent under subsection 2. **Copy of application to be served**

(4) The clerk shall notify the applicant of the time and place of the hearing. **Notice to applicant**

(5) On the day for the hearing fixed in a notice given under this section, the person filing the application shall attend before the clerk or assistant revising officer to establish the validity of such application and the clerk or assistant revising officer, after reviewing an explanation of the facts alleged and after hearing what is alleged by the person concerning whom the application was made or by his representative, may delete the name from the preliminary list if he is satisfied of the validity of the application. **Decision of clerk, etc.**

(6) Where a person concerning whom an application has been made under this section or his representative does not attend before the clerk or assistant revising officer on the day of hearing fixed in the notice and the clerk or assistant revising officer is satisfied that due notice of application has been given to the person or that he could not be found **Where person objected to does not appear**

and the registered notice could not be delivered, the clerk or assistant revising officer may delete the name of such person from the preliminary list of electors but shall not do so except upon evidence under oath which satisfies him that the name should not have been included in the list.

s. 28, re-enacted

16. Section 28 of the said Act is repealed and the following substituted therefor:

Statement of change

28. Upon determination of all applications for revision of the preliminary list of electors for a municipality filed on or before the last day for filing applications for revision thereof, the clerk shall compile a statement of inclusions in, additions and changes to and deletions from the list, showing the appropriate assessment roll number for each inclusion, addition, change and deletion, and shall send a certified copy of such statement to each person specified in subsections 4 and 5 of section 23.

s. 29 (2), amended

17. Subsection 2 of section 29 of the said Act is amended by inserting after "the" where it occurs the second time in the fifth line "money".

s. 31 (1, 2), re-enacted

18.—(1) Subsections 1 and 2 of section 31 of the said Act are repealed and the following substituted therefor:

Entry of name on list by D.R.O.

(1) If a person whose name is omitted from a polling list certified under section 29, at any time after preparation of the polling list and prior to the closing of the poll, satisfies the clerk of the municipality on oath that he was entitled to be an elector under section 12 or 13 and to have his name entered on the preliminary list for the municipality, the clerk may issue a certificate in the prescribed form authorizing the deputy returning officer for the proper polling subdivision to enter the name of the elector on the polling list for the subdivision and to permit such person to vote, but such vote must be cast before the closing of the poll.

Idem

(2) Where the name of a person is omitted from the polling list as finally revised and such person satisfies the clerk of the municipality on oath that he was under section 12 or 13 otherwise entitled to be an elector and to be entered on the preliminary list except that he was not a Canadian citizen or other British subject, if such person produces for the inspection of the clerk his certificate of naturalization or other conclusive evidence that he has become a Canadian citizen or other British subject, the clerk may issue a certificate authorizing the proper deputy returning officer to enter the name of such person on the polling list to entitle him to vote as if his name had been entered thereon before the list was revised.

SECTION 16. The reference to "complaints" for revision is changed to "applications" for revision. (See the note to section 6 of the Bill). A requirement that the clerk show the appropriate assessment roll number for each change to the preliminary list following revision is added.

SECTION 17. Tenants are, under certain circumstances, entitled to vote on money by-laws and the clerk is required to add after the name of a tenant on the preliminary list who is so qualified the words "Entitled to vote on the by-law". For clarification purposes, the words to be added by the clerk will, by the amendment, be "Entitled to vote on the money by-law".

SECTION 18.—Subsection 1. The re-enactment of subsections 1 and 2 is complementary to section 5 of the Bill, the existing reference to qualification during the period of enumeration is changed to a reference to qualification under section 12 or 13, because persons who will attain the age of eighteen years on or before polling day will now be entitled to be entered on the preliminary list, provision for such persons applying to be added to the list is no longer required.

Subsection 2. Corrects the omission of a reference

Subsection 3. A requirement that the clerk include the appropriate assessment roll number in the certificate furnished to the assessment commissioner under subsection 4 is added. The provisions of subsections 5 and 6 are new.

SECTION 19.—Subsection 1. Provides that if nomination day would fall on November 11th, it shall instead be the following day.

Subsection 2. The re-enactment of subsection 2 of section 33 is complementary to the addition of the new subsection 1*a*.

Subsection 3. The subsection presently speaks of offices for which candidates may be nominated. It is re-enacted to refer more accurately to offices for which persons may be nominated as candidates.

SECTION 20. The amendments are similar in intent to those found in section 19 (3) of the Bill; and are intended to make it clear that a person does not attain the status of candidate until he is in fact nominated.

(2) Subsection 3 of the said section 31 is amended by adding at the end thereof "or 2". s. 31 (3), amended

(3) Subsection 4 of the said section 31 is repealed and the following substituted therefor: s. 31 (4), re-enacted

(4) The clerk shall furnish a copy of each certificate issued under this section, with the appropriate assessment roll number endorsed thereon, to the assessment commissioner. Copy to assessment Commissioner

(5) The deputy returning officer shall enter or cause to be entered in the column for remarks in the poll book opposite the name and residence of the person voting under the authority of a certificate issued under this section, the words "Voted under section 31 certificate". Entry in poll book

(6) The deputy returning officer shall enclose all certificates to which this section applies in one envelope. Certificates to be kept in separate envelope

19.—(1) Section 33 of the said Act is amended by adding thereto the following subsection: s. 33, amended

(1*a*) Where under subsection 1 nomination day would ordinarily be the 11th day of November, nomination day shall, instead, be Tuesday, the twentieth day before polling day. Nomination day not to be November 11th

(2) Subsections 2 and 3 of the said section 33 are repealed and the following substituted therefor: s. 33 (2, 3), re-enacted

(2) The period during which persons may be nominated as candidates in an election shall be the four days, or, if subsection 1*a* applies, the five days immediately preceding nomination day and until 5 o'clock in the afternoon of nomination day. Period for nomination

(3) The clerk shall publish at least six days prior to the commencement of the period in which nominations may be filed, notice of the time of commencement and closing of such period and of the offices for which persons may be nominated as candidates in the election in a newspaper having general circulation in the municipality and, where there is no newspaper having a general circulation in the municipality, the notice shall be published in such manner as the clerk may direct and shall be posted in at least two conspicuous places in the municipality. Notice of nomination period

20.—(1) Subsection 1 of section 34 of the said Act is repealed and the following substituted therefor: s. 34 (1), re-enacted

How nominated

(1) A person may be nominated as a candidate for an office by filing in the office of the clerk, during the normal office hours of the clerk within the period in which nominations may be filed, a nomination paper in prescribed form which,

(*a*) shall be signed by at least ten electors whose names are entered in the polling lists of electors entitled to vote in an election to such office;

(*b*) shall state the name, occupation and address of the person nominated in such manner as will identify him and the office for which he is nominated; and

(*c*) shall state the name and address of each elector signing the nomination paper and, where the office for which the person is nominated is a member of a school board, that such nominator is a public school elector or a separate school elector, as the fact is.

s. 34 (3), amended

(2) Subsection 3 of the said section 34 is amended by striking out "candidate" in the first line and inserting in lieu thereof "person".

s. 34 (4), amended

(3) Subsection 4 of the said section 34 is amended by striking out "candidate" in the first line and inserting in lieu thereof "person".

s. 35 (2), amended

21.—(1) Subsection 2 of section 35 of the said Act is amended by striking out "for a candidate for an office" in the first line.

s. 35 (4), amended

(2) Subsection 4 of the said section 35 is amended by striking out "the nomination paper for a candidate for an office" in the first line and inserting in lieu thereof "a nomination paper", so that the subsection, exclusive of the clauses, shall read as follows:

Where filed on nomination day

(4) Where a nomination paper is filed in the office of a clerk on nomination day and before the time fixed for the close of nominations,

. . . . .

s. 35 (6), amended

(3) Subsection 6 of the said section 35 is amended by striking out "candidates" in the fourth line and inserting in lieu thereof "persons".

s. 39 (2), amended

22. Subsection 2 of section 39 of the said Act is amended by inserting after "poll" in the second line "and notice of the last day for making application to the clerk for a certificate

SECTION 21. Similar in intent to section 20 of the Bill.

SECTION 22. Where a poll is to be held, the clerk is required to publish notice of the time for the holding of the poll; the amendment will require the clerk to include in the notice the last day for applying to obtain a certificate to vote by proxy.

SECTION 23.—Subsection 1. The subsection requires that votes shall be given by ballot "in prescribed form". The words being deleted are superfluous as section 41 of the Act requires the clerk to prepare and have printed ballots in the prescribed form.

Subsection 2. Presently, a municipality may authorize the use of voting machines, subject to the approval of the Minister. The authority is broadened to include voting recorders and other voting devices and the requirement of the Minister's approval is removed. Where such machines, recorders or devices are used, the Minister is to prescribe the procedures to be followed.

SECTION 24. Self-explanatory.

SECTION 25. The re-enactment of subsection 7 adds the circle for marking the ballot, the instructions referred to in subsection 8 and any lines on the ballot as elements of the ballot that are to be in the same colour as the names and occupations of the candidates.

Subsection 8 presently provides that a ballot may contain instructions as to the number of candidates for which a voter may vote. The re-enactment will make mandatory the inclusion of such instructions and adds the requirement that the name of the office for which the election is being held be included in the instructions.

SECTION 26. The effect of the amendment is to require that a separate set of ballots be used in an election for the office set out in the added subclause.

to vote by proxy" and by inserting after "publishing" in the fourth line "the notice".

23.—(1) Subsection 1 of section 40 of the said Act is amended by striking out "in prescribed form" in the second line. s. 40 (1). amended

(2) Subsection 2 of the said section 40 is repealed and the following substituted therefor: s. 40 (2). re-enacted

(2) In place of using ballot papers under this Act, the council of a municipality may, by by-law passed on or before the 1st day of April in an election year, authorize the use at the election in that year of voting machines, voting recorders or other voting devices, and a copy of any such by-law shall be forwarded by the clerk of the municipality to the Minister forthwith after it is passed. Voting machines, etc.

(3) Where a municipality authorizes the use of voting machines, voting recorders or other voting devices, the Minister shall, by order, provide for all procedures which may be necessary to implement the use of such machines, recorders or devices and the municipality shall comply with the provisions of the order. Minister's order

24. In the year 1974, the date on or before which a by-law under subsection 2 of section 40, as re-enacted by section 23 of this Act, may be passed is the 28th day of June. Application in 1974

25. Subsections 7 and 8 of section 41 of the said Act are repealed and the following substituted therefor: s. 41 (7, 8). re-enacted

(7) All ballots for election to the same office shall be of the same description and as nearly alike as possible, and the names and occupations, and the addresses if given, of the candidates, the circle or circular space, the instructions referred to in subsection 8, and any lines on the ballot shall be in one colour and the remainder of the face of the ballot shall be another colour, but different colours may be used for ballots to be used for election to different offices. Ballots for same office to be alike

(8) A ballot shall contain instructions as to the number of candidates for which a voter may vote and the name of the office for which the election is being held. Number of candidates and name of office

26. Clause *a* of subsection 7 of section 42 of the said Act is amended by striking out "or" at the end of subclause iii, by adding "or" at the end of subclause iv and by adding thereto the following subclause: s. 42 (7) (*a*). amended

(v) member of the council of both an area municipality and a regional municipality.

s. 43 (1), amended

27. Subsection 1 of section 43 of the said Act is amended by striking out "and approved by the Minister" in the second and third lines.

s. 45 (1), re-enacted

28.—(1) Subsection 1 of section 45 of the said Act is repealed and the following substituted therefor:

Polling places in institutions

(1) Where in a municipality there is situate a hospital or other institution for the reception, treatment or vocational training of persons who have served or are serving in the Canadian Forces or the armed forces of any member of the Commonwealth, or who are blind or deaf, a Workmen's Compensation hospital or a home for the aged, a polling place shall be provided in such institution or upon the premises, and may be provided in a nursing home or other institution of twenty beds or more in which chronically ill or infirm persons reside, and for the purpose of polling, the institution shall be deemed to be a polling place, and every person resident in the institution who is entered in the polling list is entitled to vote at such polling place only.

s. 45 (3), repealed

(2) Subsection 3 of the said section 45 is repealed.

s. 54, amended

29. Section 54 of the said Act is amended by adding thereto the following subsection:

Copy to clerk and assessment commissioner

(3) The deputy returning officer shall furnish a copy of each such declaration to the clerk who shall, in turn, after endorsing thereon the appropriate assessment roll number, furnish it forthwith to the assessment commissioner.

s. 56 (1), repealed

30.—(1) Subsection 1 of section 56 of the said Act is repealed.

s. 56 (2), amended

(2) Subsection 2 of the said section 56 is amended by inserting after "oath" in the second line "under section 53 or 55".

s. 63, amended

31. Section 63 of the said Act is amended by inserting after "The" where it occurs the first time in the first line "returning officer, the assistant returning officer, the".

s. 64 (1), re-enacted

32.—(1) Subsection 1 of section 64 of the said Act is repealed and the following substituted therefor:

Advance poll

(1) The clerk shall hold an advance poll in accordance with this section on the Saturday nine days before polling day for the purpose of receiving votes of electors who expect to be unable to vote on polling day in the polling subdivisions for which their names appear on the polling lists or who are entitled to vote either under a certificate issued by the clerk under section 31 or who become entitled to vote under section 54.

SECTION 27. The subsection now permits the use of composite ballots if the Minister approves; the amendment removes the requirement of Ministerial approval.

SECTION 28.—Subsection 1. The subsection as re-enacted will permit the clerk, at his discretion, to provide a polling place in a nursing home or other institution of twenty beds or more in which chronically ill or infirm persons reside; presently, it is mandatory that a polling place be provided in such an institution.

Subsection 2. The subsection being repealed permitted the closing of the poll in an institution when everyone whose name is entered on the polling list has voted; such a polling place will now be required to remain open during regular polling hours.

SECTION 29. Section 54 of the Act permits a person to apply to the deputy returning officer at a polling place to have his name entered on the list, to receive a ballot and vote if he takes a declaration and otherwise satisfies the deputy returning officer of his entitlement; the subsection added will require the information respecting such a person to be forwarded to the assessment commissioner.

SECTION 30.—Subsection 1. The subsection being repealed permits an elector who is required to take an oath to select any one of the prescribed forms of oath; the provision is unnecessary as one standard form of oath is prescribed.

Subsection 2. Subsection 2 of section 56 of the Act provides that only certain inquiry shall be made of an elector who is required to take the oath; the amendment identifies the oath that is referred to.

SECTION 31. The effect of the amendment is to add the returning officer and the assistant returning officer to the list of persons who are allowed to remain in a polling place during the time the poll is open and at the counting of the votes.

SECTION 32.—Subsections 1 and 2. The existing provisions respecting advance polls are that two be held, one on the Monday and one on the Saturday seven days and two days preceding polling day, respectively. The re-enactment will make mandatory the holding of one advance poll on the Saturday nine days preceding election day. Additional advance polls may be held at the option of the municipality.

Subsection 3. The requirement that a person take a declaration before voting at an advance poll is deleted as unnecessary.

SECTION 33.—Subsection 1. The effect of the amendment is to permit a person voting under the authority of a clerk's certificate to vote by proxy.

Subsection 2. A parent and a grandparent are added to the list of persons who may act as voting proxy for more than one person voting by proxy.

Subsection 3. The subsection now requires the clerk to take evidence on oath as to the right of the person appointing a voting proxy to vote in the polling subdivision and as to the right of the voting proxy to act for the person appointing him. The amendment will leave it in the discretion of the clerk as to whether he requires evidence under oath.

SECTION 34. The effect of the amendment is to exempt copies of declarations taken by electors at polling places whose names are not on the polling list from the provisions requiring election documents to be placed in the ballot box by the deputy returning officer.

SECTION 35. A municipality may require a recount or final addition following an election where it deems it to be in the public interest; the amendment will permit school boards to similarly require a recount or final addition.

SECTION 36. Complementary to section 35 of the Bill; the effect of the amendment is to require a school board to pay the costs of a recount where the board has initiated the proceedings.

SECTION 37. The subsection presently provides that no person shall be entitled to inspect any ballot or other document relating to an election in the custody of the clerk except under a judge's order. The re-enactment narrows the scope of the restriction to the contents of a ballot box.

(1*a*) The council of a municipality may by by-law passed before nomination day provide for the holding by the clerk of additional advance polls for the same purposes as provided in subsection 1. Additional advance poll

(2) Subsection 2 of the said section 64 is amended by striking out "of the two days" in the second and third lines and inserting in lieu thereof "day". s. 64 (2), amended

(3) Subsection 4 of the said section 64 is repealed. s. 64 (4), repealed

33.—(1) Subsection 1 of section 65 of the said Act is amended by inserting after "subdivision" in the second line "or who has obtained a certificate under section 31 entitling him to vote". s. 65 (1), amended

(2) Subsection 3 of the said section 65 is amended by inserting after "the" in the third line "parent, grandparent". s. 65 (3), amended

(3) Subsection 6 of the said section 65 is amended by striking out "shall" in the first line and inserting in lieu thereof "may". s. 65 (6), amended

34. Subsection 1 of section 76 of the said Act is amended by striking out "and" at the end of clause *b*, by adding "and" at the end of clause *c* and by adding thereto the following clause: s. 76 (1), amended

(*d*) the copies of the declaration required to be furnished to the clerk under subsection 3 of section 54.

35. Subsection 2 of section 81 of the said Act is amended by striking out "the municipality whose clerk was the returning officer" in the thirteenth and fourteenth lines and inserting in lieu thereof "a municipality or a school board" and by striking out "thereof" in the eighteenth line and inserting in lieu thereof "who made the declaration". s. 81 (2), amended

36.—(1) Subsection 3 of section 84 of the said Act is amended by adding at the end thereof "except where the recount or final addition has been held at the instance of a school board, in which case the disbursements made by the clerk shall be paid by the board". s. 84 (3), amended

(2) Subsection 6 of the said section 84 is amended by adding at the end thereof "except where the recount or final addition has been held at the instance of a school board, in which case the expenses shall be paid by the board". s. 84 (6), amended

37. Subsection 1 of section 88 of the said Act is repealed and the following substituted therefor: s. 88 (1), re-enacted

Inspection of ballots

(1) No person shall be allowed to inspect the contents of a ballot box in the custody of the clerk except under the order of a judge.

s. 90 (4), re-enacted

38.—(1) Subsection 4 of section 90 of the said Act is repealed and the following substituted therefor:

List of electors

(4) Unless a new preliminary list of electors has been furnished by the assessment commissioner under subsection 5, the preliminary list to be used for preparation of the polling list for a new election shall be the polling list used at the last regular election, which shall be subject to revision as if it were a preliminary list of electors and sections 22 to 28 apply *mutatis mutandis* to the printing or reproduction of the list and to the revision of the list, subject to the following rules:

1. Where a new election is required under clause *a* of section 36 or subsection 3 of section 38, the period during which a person may qualify as an elector for the office to be elected shall be the period of qualification specified under section 12 or 13 and the period following such qualification period terminating on the Thursday following the day on which the polling for the last regular election was held.

2. Where a new election is required under section 109, the period during which a person may qualify as an elector for the office to be elected shall be the period of qualification specified under section 12 or 13 and the period following such qualification period terminating on the date of the receipt by the clerk of the municipality of the copy of the judgment under subsection 6 of section 109.

3. Where a vacancy otherwise occurs and the council of the municipality or a school board for which the clerk is required to hold elections requires an election to be held to fill the vacancy, the period during which an elector may qualify as an elector for the office to be elected shall be the period of qualification specified under section 12 or 13 and the period following such qualification period terminating on the date of the passing of the by-law by council or the adoption of the resolution by the school board, as the case may be.

4. Where a by-law or question is to be submitted to the electors, the period during which a person may qualify as an elector entitled to vote on the by-law

SECTION 38.—Subsection 1. The re-enactment provides a more detailed set of rules relating to the qualification period for electors in the case where a new election is held. The following situations are dealt with by the four paragraphs of subsection 4:

1. Where the election is required by the death of a candidate before the close of the poll or where the number of candidates elected to an office is less than the number required.

2. Where the election is required by reason of a successful candidate being found guilty of bribery or a corrupt practice and the court declares the election void.

3. Where a vacancy occurs and the municipality or school board requires an election to be held to fill the vacancy.

4. Where a by-law or question is to be submitted to the electors other than at a regular election under an order made by the Ontario Municipal Board.

Subsection 2. The added subsection 5*a* provides that the preliminary list for a new election is subject to the usual certification procedures by the clerk and to the entry of names thereon. The added subsection 8 provides for a partial revision only of the preliminary list in the circumstances indicated.

SECTION 39. The subsection is re-enacted to embrace the situation where a member disclaims his right to hold office on a local board. In such case, the clerk shall communicate it to the secretary of the local board affected.

SECTION 40. The section provides procedures relating to removal from office and to have the right of a person to sit in a council determined; the amendment extends the application of those procedures to members of local boards and trustees of police villages.

SECTION 41. The section as re-enacted removes the power of the Minister to make regulations prescribing rules for the use of voting machines. See the note to subsection 2 of section 23 of the Bill where voting machines, voting recorders and other voting devices are authorized and the Minister empowered to provide by order procedures necessary to implement their use.

or question, as the case may be, shall be the period of qualification specified under section 12 or 13 and the period following such qualification period terminating on the date of the order of the Ontario Municipal Board given under section 262 of *The Municipal Act*. R.S.O. 1970, c. 284

(2) The said section 90 is amended by adding thereto the following subsections: s. 90, amended

(5*a*) The preliminary list for a new election, when revised, shall be subject to certification by the clerk under section 29 and to entry of names in the list under sections 31 and 54. Certification of list

. . . . .

(8) If election to the office for which a new election is required is to be by ward or other form of division of the municipality it is necessary to revise only that portion of the preliminary list applicable to such ward or other part of the municipality. Revision of partial list

39. Subsection 1 of section 115 of the said Act is amended by adding at the end thereof "or to the secretary of the local board, as the case requires", so that the subsection shall read as follows: s. 115 (1), amended

(1) A person disclaiming shall deliver a duplicate of his disclaimer to the clerk of the municipality, and the clerk shall forthwith communicate it to the council or to the secretary of the local board, as the case requires. Duplicate of disclaimer to clerk

40. Section 116 of the said Act is amended by inserting after "council" in the fourth line "or as trustee of a police village or as member of a local board, as the case may be". s. 116, amended

41. Section 117 of the said Act is repealed and the following substituted therefor: s. 117, re-enacted

117. The Minister may make regulations prescribing forms for the purposes of this Act. Regulations

42.—(1) This Act, except section 8, comes into force on the day it receives Royal Assent. Commencement

(2) Section 8 comes into force on the 1st day of January, 1975. Idem

43. This Act may be cited as *The Municipal Elections Amendment Act, 1974*. Short title

An Act to amend
The Municipal Elections Act, 1972

1st Reading

May 10th, 1974

2nd Reading

May 24th, 1974

3rd Reading

THE HON. J. WHITE
Treasurer of Ontario and
Minister of Economics and
Intergovernmental Affairs

(*Reprinted as amended by the Committee of the Whole House*)

1974

BILL 65

4TH SESSION, 29TH LEGISLATURE, ONTARIO
23 ELIZABETH II, 1974

An Act to amend The Municipal Elections Act, 1972

THE HON. J. WHITE
Treasurer of Ontario and Minister of Economics
and Intergovernmental Affairs

TORONTO
PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO

BILL 65 **1974**

An Act to amend The Municipal Elections Act, 1972

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Paragraph 31 of section 1 of *The Municipal Elections Act, 1972*, being chapter 95, is repealed and the following substituted therefor: s. 1, par. 31, re-enacted

31. "regular election" means an election required to be held under section 10 of this Act.

2. Subsection 7 of section 4 of the said Act is amended by inserting after "Every" in the first line "returning officer". s. 4 (7), amended

3. Subsection 2 of section 7 of the said Act is repealed. s. 7 (2), repealed

4. The said Act is amended by adding thereto the following section: s. 7a, enacted

7a. A person appointed as a scrutineer under section 6 or 7, before being admitted to a polling place shall, if so requested, produce and show his appointment to the deputy returning officer for the polling place. Production of appointment

5. Sections 12 and 13 of the said Act are repealed and the following substituted therefor: ss. 12, 13, re-enacted

12. A person is entitled to be an elector in a municipality if he is not disqualified under this or any other Act or otherwise prohibited by law from voting in the election and if, at any time during the period commencing on the Tuesday following the first Monday in September and ending on the second Tuesday in October in an election year, he, Electors, resident

(*a*) is a resident in such municipality;

(*b*) is a Canadian citizen or other British subject; and

(*c*) has attained the age of eighteen years or on or before polling day will attain the age of eighteen years.

Electors, non-resident

13. A person is entitled to be an elector in a municipality if he is not disqualified under this or any other Act or otherwise prohibited by law from voting in the election and is not resident in such municipality at any time during the period commencing on the Tuesday following the first Monday in September and ending on the second Tuesday in October in an election year, but at any time during such period, he,

(*a*) is the owner or tenant of land in the municipality or the spouse of such an owner or tenant;

(*b*) is a Canadian citizen or other British subject; and

(*c*) has attained the age of eighteen years or on or before polling day will attain the age of eighteen years.

Judges not qualified to vote

13*a*. No judge of any court is qualified to vote in any election.

s. 15 (*b*), amended

6. Clause *b* of section 15 of the said Act is amended by striking out "making complaints" in the ninth line and inserting in lieu thereof "filing applications".

s. 16 (3), re-enacted

7. Subsection 3 of section 16 of the said Act is repealed and the following substituted therefor:

Appointment to be filed

(3) Where a corporation entitled to appoint a nominee to vote on its behalf desires to vote on a proposed money by-law, it shall, not later than the last day for filing applications for the revision of a preliminary list as hereinafter provided, file with the clerk of the municipality an appointment in writing of a person to vote on a proposed money by-law as its nominee and on its behalf.

s. 17 (1), amended

8. Subsection 1 of section 17 of the said Act is amended by striking out "June" in the third line and inserting in lieu thereof "April".

s. 18, amended

9. Section 18 of the said Act is amended by striking out "second Tuesday of October" in the third line and inserting in lieu thereof "30th day of September" and by striking out "during such period" in the seventh line.

s. 21*a*, enacted

10. The said Act is further amended by adding thereto the following section:

Correction of list if manifest errors in it

21*a*. Where it is apparent to the clerk or the secretary of the school board that the list or part thereof delivered to him under section 21 is not in conformity with the require-

ments for the polling subdivisions or that the list contains gross or manifest errors, the clerk or the secretary, as the case may be may, prior to the printing or reproduction of the list required under section 22, correct the list or part thereof and shall forthwith notify the assessment commissioner of such corrections, showing the appropriate assessment roll number against each such correction.

11. Section 22 of the said Act is repealed and the following substituted therefor: s. 22. re-enacted

22. Immediately after receipt of the list of electors delivered by the assessment commissioner under section 21, the clerk or secretary of the school board referred to in the said section 21, after making corrections, if any, under section 21*a*, shall cause the list to be printed or reproduced and such list shall be the preliminary list of electors. Printing of list

12. (1) Clauses *a* and *c* of subsection 1 of section 23 of the said Act are repealed and the following substituted therefor: s. 23 (1) (*a*, *c*). re-enacted

(*a*) fix the places at which and the times when revision of the list will be undertaken;

. . . . .

(*c*) publish notice in a newspaper having general circulation in the municipality, of the date of the posting of the list, the last day for filing applications for revision of the list for the purpose of including names of electors who have not been included or of making additions or corrections to or deletions from the list, and the places and times at which the revision of the list will be undertaken and, where there is no such newspaper, the notice shall be published in such manner as the clerk may direct and shall be posted in at least two conspicuous places in the municipality.

(2) Subsection 2 of the said section 23 is amended by striking out "complaints" in the third line and inserting in lieu thereof "applications for revision". s. 23 (2). amended

(3) The said section 23 is amended by adding thereto the following subsection: s. 23. amended

(2*a*) The last day for the filing of applications for revision of the preliminary list shall be the second Friday preceding nomination day and such applications may be filed with the clerk during his normal office hours. Last day for filing applications for revision of preliminary list

s. 23 (3) (*a*, *d*), re-enacted

(4) Clauses *a* and *d* of subsection 3 of the said section 23 are repealed and the following substituted therefor:

(*a*) stating that the list is a preliminary list of all electors for the election or is a preliminary list of all electors for the polling subdivision, as the case may be, prepared as required by this Act;

. . . . .

(*d*) stating the last day for filing applications concerning such inclusions, additions, corrections or deletions.

s. 24, re-enacted

13. Section 24 of the said Act is repealed and the following substituted therefor:

Revision of list

24.—(1) The clerk or an assistant revising officer shall attend at the revision of the preliminary list and shall continue to do so from day to day or as required until all applications filed before the last day for filing applications for revision of the list have been disposed of.

When applications may be considered

(2) Notwithstanding that the time for filing applications for revision of the preliminary list under section 23 has not expired, the clerk may proceed to consider such applications as from time to time may be received and may determine and dispose of them.

s. 25 (1, 2), re-enacted

14. Subsections 1 and 2 of section 25 of the said Act are repealed and the following substituted therefor:

Application to enter name in list or correct information

(1) A person whose name has not been included in the preliminary list for a polling subdivision in a municipality or whose name has been included therein but the information relating to him set out therein is incorrect or whose name has been included therein as a non-resident and who is qualified to be an elector in more than one ward in the municipality may apply to the clerk or assistant revising officer of the municipality on or before the last day for filing applications for revision of the list to have his name included on the list or to have such information corrected or to have his name deleted from the list and to have it entered in the list of another ward in which he or his spouse is the owner or tenant of land.

Application and declaration

(2) Every person applying under this section shall sign an application in the prescribed form in which all the information shall be sufficiently filled in, either by the applicant personally or by the clerk or assistant revising officer at the applicant's request and shall declare that he understands

the effect of the statements in the application and that he is an elector entitled to have his name included on the list or to have the list corrected pursuant to his request before the clerk or assistant revising officer enters his name on the list or corrects the preliminary list, as the case may be.

(2*a*) An application made under this section and duly signed by the applicant may be filed by the applicant or by his agent on his behalf. Application filed personally or by agent

15.—(1) Subsection 1 of section 26 of the said Act is amended by striking out "complaints" in the third line and inserting in lieu thereof "applications" and by striking out "a complaint" in the fourth line and inserting in lieu thereof "an application". s. 26 (1), amended

(2) Subsections 2, 3, 4 and 5 of the said section 26 are repealed and the following substituted therefor: s. 26 (2-5), re-enacted

(2) The clerk, upon receipt of an application under this section, shall forthwith cause to be served personally on or sent by registered mail to the person concerning whom the application is made at the address given in the preliminary list and at such other address, if any, as may be mentioned in the application, a notice of hearing requiring such person to appear in person or by his representative on a day and at a time to be fixed in the notice. Notice to person where name objected to

(3) A copy of the application shall accompany a notice served or sent under subsection 2. Copy of application to be served

(4) The clerk shall notify the applicant of the time and place of the hearing. Notice to applicant

(5) On the day for the hearing fixed in a notice given under this section, the person filing the application shall attend before the clerk or assistant revising officer to establish the validity of such application and the clerk or assistant revising officer, after reviewing an explanation of the facts alleged and after hearing what is alleged by the person concerning whom the application was made or by his representative, may delete the name from the preliminary list if he is satisfied of the validity of the application. Decision of clerk, etc

(6) Where a person concerning whom an application has been made under this section or his representative does not attend before the clerk or assistant revising officer on the day of hearing fixed in the notice and the clerk or assistant revising officer is satisfied that due notice of application has been given to the person or that he could not be found Where person objected to does not appear

and the registered notice could not be delivered, the clerk or assistant revising officer may delete the name of such person from the preliminary list of electors but shall not do so except upon evidence under oath which satisfies him that the name should not have been included in the list.

s. 28, re-enacted

16. Section 28 of the said Act is repealed and the following substituted therefor:

Statement of change

28. Upon determination of all applications for revision of the preliminary list of electors for a municipality filed on or before the last day for filing applications for revision thereof, the clerk shall compile a statement of inclusions in, additions and changes to and deletions from the list, showing the appropriate assessment roll number for each inclusion, addition, change and deletion, and shall send a certified copy of such statement to each person specified in subsections 4 and 5 of section 23.

s. 29 (2), amended

17. Subsection 2 of section 29 of the said Act is amended by inserting after "the" where it occurs the second time in the fifth line "money".

s. 31 (1, 2), re-enacted

18.—(1) Subsections 1 and 2 of section 31 of the said Act are repealed and the following substituted therefor:

Entry of name on list by D.R.O.

(1) If a person whose name is omitted from a polling list certified under section 29, at any time after preparation of the polling list and prior to the closing of the poll, satisfies the clerk of the municipality on oath that he was entitled to be an elector under section 12 or 13 and to have his name entered on the preliminary list for the municipality, the clerk may issue a certificate in the prescribed form authorizing the deputy returning officer for the proper polling subdivision to enter the name of the elector on the polling list for the subdivision and to permit such person to vote, but such vote must be cast before the closing of the poll.

Idem

(2) Where the name of a person is omitted from the polling list as finally revised and such person satisfies the clerk of the municipality on oath that he was under section 12 or 13 otherwise entitled to be an elector and to be entered on the preliminary list except that he was not a Canadian citizen or other British subject, if such person produces for the inspection of the clerk his certificate of naturalization or other conclusive evidence that he has become a Canadian citizen or other British subject, the clerk may issue a certificate authorizing the proper deputy returning officer to enter the name of such person on the polling list to entitle him to vote as if his name had been entered thereon before the list was revised.

(2) Subsection 3 of the said section 31 is amended by adding at the end thereof "or 2". s. 31 (3), amended

(3) Subsection 4 of the said section 31 is repealed and the following substituted therefor: s. 31 (4), re-enacted

(4) The clerk shall furnish a copy of each certificate issued under this section, with the appropriate assessment roll number endorsed thereon, to the assessment commissioner. Copy to assessment Commissioner

(5) The deputy returning officer shall enter or cause to be entered in the column for remarks in the poll book opposite the name and residence of the person voting under the authority of a certificate issued under this section, the words "Voted under section 31 certificate". Entry in poll book

(6) The deputy returning officer shall enclose all certificates to which this section applies in one envelope. Certificates to be kept in separate envelope

19.—(1) Section 33 of the said Act is amended by adding thereto the following subsection: s. 33, amended

(1*a*) Where under subsection 1 nomination day would ordinarily be the 11th day of November, nomination day shall, instead, be Tuesday, the twentieth day before polling day. Nomination day not to be November 11th

(2) Subsections 2 and 3 of the said section 33 are repealed and the following substituted therefor: s. 33 (2, 3), re-enacted

(2) The period during which persons may be nominated as candidates in an election shall be the four days, or, if subsection 1*a* applies, the five days immediately preceding nomination day and until 5 o'clock in the afternoon of nomination day. Period for nomination

(3) The clerk shall publish at least six days prior to the commencement of the period in which nominations may be filed, notice of the time of commencement and closing of such period and of the offices for which persons may be nominated as candidates in the election in a newspaper having general circulation in the municipality and, where there is no newspaper having a general circulation in the municipality, the notice shall be published in such manner as the clerk may direct and shall be posted in at least two conspicuous places in the municipality. Notice of nomination period

20. (1) Subsection 1 of section 34 of the said Act is repealed and the following substituted therefor: s. 34 (1), re-enacted

How nominated

(1) A person may be nominated as a candidate for an office by filing in the office of the clerk, during the normal office hours of the clerk within the period in which nominations may be filed, a nomination paper in prescribed form which,

(*a*) shall be signed by at least ten electors whose names are entered in the polling lists of electors entitled to vote in an election to such office;

(*b*) shall state the name, occupation and address of the person nominated in such manner as will identify him and the office for which he is nominated; and

(*c*) shall state the name and address of each elector signing the nomination paper and, where the office for which the person is nominated is a member of a school board, that such nominator is a public school elector or a separate school elector, as the fact is.

s. 34 (3), amended

(2) Subsection 3 of the said section 34 is amended by striking out "candidate" in the first line and inserting in lieu thereof "person".

s. 34 (4), amended

(3) Subsection 4 of the said section 34 is amended by striking out "candidate" in the first line and inserting in lieu thereof "person".

s. 35 (2), amended

21.—(1) Subsection 2 of section 35 of the said Act is amended by striking out "for a candidate for an office" in the first line.

s. 35 (4), amended

(2) Subsection 4 of the said section 35 is amended by striking out "the nomination paper for a candidate for an office" in the first line and inserting in lieu thereof "a nomination paper", so that the subsection, exclusive of the clauses, shall read as follows:

Where filed on nomination day

(4) Where a nomination paper is filed in the office of a clerk on nomination day and before the time fixed for the close of nominations,

. . . . .

s. 35 (6), amended

(3) Subsection 6 of the said section 35 is amended by striking out "candidates" in the fourth line and inserting in lieu thereof "persons".

s. 39 (2), amended

22. Subsection 2 of section 39 of the said Act is amended by inserting after "poll" in the second line "and notice of the last day for making application to the clerk for a certificate

to vote by proxy" and by inserting after "publishing" in the fourth line "the notice".

23.—(1) Subsection 1 of section 40 of the said Act is amended by striking out "in prescribed form" in the second line. s. 40 (1), amended

(2) Subsection 2 of the said section 40 is repealed and the following substituted therefor: s. 40 (2), re-enacted

(2) In place of using ballot papers under this Act, the council of a municipality may, by by-law passed on or before the 1st day of April in an election year, authorize the use at the election in that year of voting machines, voting recorders or other voting devices, and a copy of any such by-law shall be forwarded by the clerk of the municipality to the Minister forthwith after it is passed. Voting machines, etc.

(3) Where a municipality authorizes the use of voting machines, voting recorders or other voting devices, the Minister shall, by order, provide for all procedures which may be necessary to implement the use of such machines, recorders or devices and the municipality shall comply with the provisions of the order. Minister's order

24. In the year 1974, the date on or before which a by-law under subsection 2 of section 40, as re-enacted by section 23 of this Act, may be passed is the 28th day of June. Application in 1974

25. Subsections 7 and 8 of section 41 of the said Act are repealed and the following substituted therefor: s. 41 (7, 8), re-enacted

(7) All ballots for election to the same office shall be of the same description and as nearly alike as possible, and the names and occupations, and the addresses if given, of the candidates, the circle or circular space, the instructions referred to in subsection 8, and any lines on the ballot shall be in one colour and the remainder of the face of the ballot shall be another colour, but different colours may be used for ballots to be used for election to different offices. Ballots for same office to be alike

(8) A ballot shall contain instructions as to the number of candidates for which a voter may vote and the name of the office for which the election is being held. Number of candidates and name of office

26. Clause *a* of subsection 7 of section 42 of the said Act is amended by striking out "or" at the end of subclause iii, by adding "or" at the end of subclause iv and by adding thereto the following subclause: s. 42 (7) (*a*), amended

(v) member of the council of both an area municipality and a regional municipality.

s. 43 (1), amended

27. Subsection 1 of section 43 of the said Act is amended by striking out "and approved by the Minister" in the second and third lines.

s. 45 (1), re-enacted

28.—(1) Subsection 1 of section 45 of the said Act is repealed and the following substituted therefor:

Polling places in institutions

(1) Where in a municipality there is situate a hospital or other institution for the reception, treatment or vocational training of persons who have served or are serving in the Canadian Forces or the armed forces of any member of the Commonwealth, or who are blind or deaf, a Workmen's Compensation hospital or a home for the aged, a polling place shall be provided in such institution or upon the premises, and may be provided in a nursing home or other institution of twenty beds or more in which chronically ill or infirm persons reside, and for the purpose of polling, the institution shall be deemed to be a polling place, and every person resident in the institution who is entered in the polling list is entitled to vote at such polling place only.

s. 45 (3), repealed

(2) Subsection 3 of the said section 45 is repealed.

s. 54, amended

29. Section 54 of the said Act is amended by adding thereto the following subsection:

Copy to clerk and assessment commissioner

(3) The deputy returning officer shall furnish a copy of each such declaration to the clerk who shall, in turn, after endorsing thereon the appropriate assessment roll number, furnish it forthwith to the assessment commissioner.

s. 56 (1), repealed

30.—(1) Subsection 1 of section 56 of the said Act is repealed.

s. 56 (2), amended

(2) Subsection 2 of the said section 56 is amended by inserting after "oath" in the second line "under section 53 or 55".

s. 63, amended

31. Section 63 of the said Act is amended by inserting after "The" where it occurs the first time in the first line "returning officer, the assistant returning officer, the".

s. 64 (1), re-enacted

32.—(1) Subsection 1 of section 64 of the said Act is repealed and the following substituted therefor:

Advance poll

(1) The clerk shall hold an advance poll in accordance with this section on the Saturday nine days before polling day for the purpose of receiving votes of electors who expect to be unable to vote on polling day in the polling subdivisions for which their names appear on the polling lists or who are entitled to vote either under a certificate issued by the clerk under section 31 or who become entitled to vote under section 54.

(1*a*) The council of a municipality may by by-law passed before nomination day provide for the holding by the clerk of additional advance polls for the same purposes as provided in subsection 1. Additional advance poll

(2) Subsection 2 of the said section 64 is amended by striking out "of the two days" in the second and third lines and inserting in lieu thereof "day". s. 64 (2), amended

(3) Subsection 4 of the said section 64 is repealed. s. 64 (4), repealed

33.—(1) Subsection 1 of section 65 of the said Act is amended by inserting after "subdivision" in the second line "or who has obtained a certificate under section 31 entitling him to vote". s. 65 (1), amended

(2) Subsection 3 of the said section 65 is amended by inserting after "the" in the third line "parent, grandparent". s. 65 (3), amended

(3) Subsection 6 of the said section 65 is amended by striking out "shall" in the first line and inserting in lieu thereof "may". s. 65 (6), amended

34. Subsection 1 of section 76 of the said Act is amended by striking out "and" at the end of clause *b*, by adding "and" at the end of clause *c* and by adding thereto the following clause: s. 76 (1), amended

(*d*) the copies of the declaration required to be furnished to the clerk under subsection 3 of section 54.

35. Subsection 2 of section 81 of the said Act is amended by striking out "the municipality whose clerk was the returning officer" in the thirteenth and fourteenth lines and inserting in lieu thereof "a municipality or a school board" and by striking out "thereof" in the eighteenth line and inserting in lieu thereof "who made the declaration". s. 81 (2), amended

36.—(1) Subsection 3 of section 84 of the said Act is amended by adding at the end thereof "except where the recount or final addition has been held at the instance of a school board, in which case the disbursements made by the clerk shall be paid by the board". s. 84 (3), amended

(2) Subsection 6 of the said section 84 is amended by adding at the end thereof "except where the recount or final addition has been held at the instance of a school board, in which case the expenses shall be paid by the board". s. 84 (6), amended

37. Subsection 1 of section 88 of the said Act is repealed and the following substituted therefor: s. 88 (1), re-enacted

Inspection of ballots

(1) No person shall be allowed to inspect the contents of a ballot box in the custody of the clerk except under the order of a judge.

s. 90 (4), re-enacted

38.—(1) Subsection 4 of section 90 of the said Act is repealed and the following substituted therefor:

List of electors

(4) Unless a new preliminary list of electors has been furnished by the assessment commissioner under subsection 5, the preliminary list to be used for preparation of the polling list for a new election shall be the polling list used at the last regular election, which shall be subject to revision as if it were a preliminary list of electors and sections 22 to 28 apply *mutatis mutandis* to the printing or reproduction of the list and to the revision of the list, subject to the following rules:

1. Where a new election is required under clause *a* of section 36 or subsection 3 of section 38, the period during which a person may qualify as an elector for the office to be elected shall be the period of qualification specified under section 12 or 13 and the period following such qualification period terminating on the Thursday following the day on which the polling for the last regular election was held.

2. Where a new election is required under section 109, the period during which a person may qualify as an elector for the office to be elected shall be the period of qualification specified under section 12 or 13 and the period following such qualification period terminating on the date of the receipt by the clerk of the municipality of the copy of the judgment under subsection 6 of section 109.

3. Where a vacancy otherwise occurs and the council of the municipality or a school board for which the clerk is required to hold elections requires an election to be held to fill the vacancy, the period during which an elector may qualify as an elector for the office to be elected shall be the period of qualification specified under section 12 or 13 and the period following such qualification period terminating on the date of the passing of the by-law by council or the adoption of the resolution by the school board, as the case may be.

4. Where a by-law or question is to be submitted to the electors, the period during which a person may qualify as an elector entitled to vote on the by-law

or question, as the case may be, shall be the period of qualification specified under section 12 or 13 and the period following such qualification period terminating on the date of the order of the Ontario Municipal Board given under section 262 of *The Municipal Act*. R.S.O. 1970, c. 284

(2) The said section 90 is amended by adding thereto the following subsections: s. 90, amended

(5*a*) The preliminary list for a new election, when revised, shall be subject to certification by the clerk under section 29 and to entry of names in the list under sections 31 and 54. Certification of list

. . . . .

(8) If election to the office for which a new election is required is to be by ward or other form of division of the municipality it is necessary to revise only that portion of the preliminary list applicable to such ward or other part of the municipality. Revision of partial list

39. Subsection 1 of section 115 of the said Act is amended by adding at the end thereof "or to the secretary of the local board, as the case requires", so that the subsection shall read as follows: s. 115 (1), amended

(1) A person disclaiming shall deliver a duplicate of his disclaimer to the clerk of the municipality, and the clerk shall forthwith communicate it to the council or to the secretary of the local board, as the case requires. Duplicate of disclaimer to clerk

40. Section 116 of the said Act is amended by inserting after "council" in the fourth line "or as trustee of a police village or as member of a local board, as the case may be". s. 116, amended

41. Section 117 of the said Act is repealed and the following substituted therefor: s. 117, re-enacted

117. The Minister may make regulations prescribing forms for the purposes of this Act. Regulations

42. (1) This Act, except section 8, comes into force on the day it receives Royal Assent. Commencement

(2) Section 8 comes into force on the 1st day of January, 1975. Idem

43. This Act may be cited as *The Municipal Elections Amendment Act, 1974*. Short title

An Act to amend
The Municipal Elections Act, 1972

1st Reading

May 10th, 1974

2nd Reading

May 24th, 1974

3rd Reading

June 11th, 1974

THE HON. J. WHITE
Treasurer of Ontario and
Minister of Economics and
Intergovernmental Affairs

1974

BILL 66 **Private Member's Bill**

4TH SESSION, 29TH LEGISLATURE, ONTARIO
23 ELIZABETH II, 1974

An Act to amend The Ontario Energy Board Act

MR. LEWIS

TORONTO
PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO

Explanatory Notes

Section 1. "Gasoline" defined.

Section 2. This section provides the Ontario Energy Board with power to control gasoline and fuel oil prices at the wholesale and retail level.

BILL 66 **1974**

An Act to amend The Ontario Energy Board Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 1 of *The Ontario Energy Board Act*, being chapter 312 of the Revised Statutes of Ontario, 1970, is amended by adding thereto the following paragraph: s. 1. amended

> 6*a*. "gasoline" means a product of petroleum that has a flash point below 100°F and that is designed for use in an internal combustion engine.

2. The said Act is amended by adding thereto the following section: s. 19*a*. enacted

19*a*.—(1) The Board may require a wholesaler or retailer to file with the Board such information as the Board may require with respect to the cost to the wholesaler or retailer of gasoline or fuel oil and the price at which gasoline or fuel oil is sold or offered for sale by the wholesaler or retailer to retailers or consumers, as the case may be, or the cost to the wholesaler of the product from which it produces gasoline or fuel oil and with respect to such other matters respecting the cost to retailers and consumers of gasoline and fuel oil as the Board may reasonably require. General powers of Board

(2) No wholesaler or retailer shall sell or offer for sale gasoline or fuel oil at an increase in price above the price in effect when this Act comes into force unless it first files with the Board the statement required under subsection 3. Increases in price

(3) Where a wholesaler or retailer increases the price of gasoline or fuel oil it shall file with the Board a statement setting forth the amount of the increase and the reasons for such increase. Statement

Hearing

(4) The Board may require a wholesaler or retailer to appear before the Board to justify an increase in its price of gasoline or fuel oil.

Determination of price

(5) If the Board is not satisfied after the hearing referred to in subsection 4 that the increase in the price of gasoline or fuel oil to retailers or consumers, as the case may be, is justified, the Board may by order determine the price at which the wholesaler or retailer shall sell gasoline or fuel oil.

Offence

(6) Notwithstanding section 35, any wholesaler or retailer who fails to provide the Board with information requested by the Board pursuant to subsection 1 and any wholesaler or retailer who increases the price or prices of gasoline or fuel oil without first filing with the Board the statement required by subsection 3 or fails to appear before the Board to justify an increase contrary to this section and any wholesaler or retailer who offers for sale, sells or otherwise disposes of gasoline or fuel oil in contravention of any order of the Board is liable to a fine of not more than $10,000 per day for each day over which the offence continues.

Commencement

3. This Act comes into force on the day it receives Royal Assent.

Short title

4. This Act may be cited as *The Ontario Energy Board Amendment Act, 1974*.

An Act to amend
The Ontario Energy Board Act

1st Reading

May 13th, 1974

2nd Reading

3rd Reading

MR. LEWIS

(*Private Member's Bill*)

1974

BILL 67 **Private Member's Bill**

4TH SESSION, 29TH LEGISLATURE, ONTARIO
23 ELIZABETH II, 1974

An Act to establish The Gasoline Retailers Bill of Rights

MR. DEACON

TORONTO
PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO

Explanatory Note

The Bill establishes a Bill of Rights for gasoline retailers.

BILL 67 **1974**

An Act to establish The Gasoline Retailers Bill of Rights

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. In this Act, "motor vehicle fuel" means any gas or liquid produced, prepared or compounded for the purpose of generating power by means of internal combustion or that may be used for such purpose, but does not include aviation fuel or the products commonly known as fuel oil, coal oil or kerosene, except when any such product is mixed or combined with motor vehicle fuel. Interpretation

2. Notwithstanding the terms of any contract between an oil company or any other supplier of petroleum products and a retailer, where a retailer of petroleum products is required or permitted to, Entitlement to rights

(*a*) invest his own money;

(*b*) take a risk of losing his own money;

(*c*) pay salaries to employees;

(*d*) lease the retail premises, pay an occupancy charge for the premises or own the premises; or

(*e*) buy motor vehicle fuel or other merchandise or be charged with the cost of motor vehicle fuel or other merchandise for resale,

the retailer is entitled to the rights set out in section 4 and where the retailer is a tenant he is also entitled to the rights set out in section 3.

3. Where an oil company or other supplier provides premises to a person to conduct the business of retailing petroleum products and the person is required to pay a rental or occupancy charge, that person is entitled to security of tenure under a lease which is deemed to include the following provisions: Rights of tenants

1. Rent is payable monthly and the rental formula is not to be changed during the term of a lease except with the consent of the retailer.

2. Subject to the right of either the lessor or the lessee to terminate the lease at any time on thirty days written notice, the term of a first lease shall not be less than one year.

3. Except where a shorter term is agreed upon in writing by the lessor and lessee, the term of a lease subsequent to the lease referred to in paragraph 2 or a renewal of a lease shall not be less than three years.

4. Where either the lessor or lessee does not intend to renew a lease or a renewal of a lease, he shall give the other party notice in writing, at least ninety days before the expiry of the lease or renewal, of his intention not to renew.

5. Subject to section 7, except where,

   (i) the lessee fails to pay his monthly rent within fifteen days of the date when it is due,

   (ii) the lessee fails to maintain the retail premises in good repair, reasonable wear and tear excepted,

   (iii) the lessee abandons the retail premises,

   (iv) the lessee declares bankruptcy or becomes insolvent,

   (v) the lessee does not operate the retail premises during normal business hours for that locality for reasons within the control of the lessee for three consecutive days,

   (vi) the lessee sells from the retail premises motor vehicle fuel which was not purchased from the lessor, or

   (vii) the lessee sells from the retail premises, grades of motor vehicle fuels other than those grades purchased from the lessor,

   a lease shall not be terminated by the lessor during its term and the exercise by the lessee of any right conferred on him by this Act is not an exceptional circumstance entitling a lessor to terminate.

6. Except where the lessee has not complied with the terms of the lease, a lessee has the right of first refusal on any lease subsequent to a lease referred to in paragraph 2 or a renewal of a lease and the lessor shall not rent the retail premises to any other person for a lesser rental or on more favourable terms and conditions than have first been offered to and declined by the existing lessee.

7. Where a lessor sells a retail premises, the lessee in possession shall have a right of first refusal and the lessor shall not sell the premises at a lesser price or on more favourable terms and conditions than have first been offered to and refused by the lessee.

8. Where there is a termination of a lease or a failure on the part of the lessor and lessee to enter into a new lease, the lessor shall offer to buy from the lessee,

   (i) all the resaleable stock of the retail premises at the lessee's cost, and

   (ii) all the equipment in the retail premises at fair market value.

9. In the event of the death of the lessee, the executors of the lessee's estate may,

   (i) sell the business of the retail premises, including goodwill, to any person other than the lessor, or

   (ii) sell the stock and equipment to the lessor subject to the provisions of paragraph 8 within such reasonable period as may be agreed to by the lessor.

Rights of all retailers

4.—(1) A retailer of petroleum products, whether an owner or tenant has the right,

(*a*) to join and accept office in any trade association of his choice without interference, penalties or sanctions from any oil company or other company which is his landlord or supplies him with petroleum products;

(*b*) to make submissions or representations to any oil company or other company which supplies him with petroleum products through the trade association to

which he belongs on behalf of himself and other operators who sell the brand name products of that oil company or other company;

(*c*) subject to subsection 2 and subject to his compliance with the laws and by-laws of the place where he carries on business, to determine the hours during which his business will be open to serve the public, and no oil company or other company which is his landlord or supplier shall offer or give any inducement or advantage or impose any penalty or sanction to influence the operator in his free choice of business hours;

(*d*) to buy, sell, stock, display and advertise on the premises any brand or kind of tires, batteries, accessories, or other merchandise;

(*e*) subject to clause *i* and subsection 3 and except for motor vehicle fuel, to buy, sell, stock, display or advertise on the premises any kind or brand of lubricating oil and grease, anti freeze, kerosene and other petroleum products;

(*f*) except where he is requested to do otherwise by a customer, to service vehicles on the premises, in the lubricating bay or in the service bays with any kind or brand of anti freeze, oil, grease or lubricant;

(*g*) to receive from an oil company or other supplier which advertises its brand name products to the public, at no cost to the retailer, any articles, tickets, chances, gifts, bonuses, premiums or other promotional items or services the retailer may require to enable the retailer to play his part as advertised in any brand or product promotion;

(*h*) to receive full compensation from an oil company or other supplier of petroleum products for providing any services which the oil company or other supplier advertises that the retailer will perform free or will perform for less than his usual price and for providing any merchandise that the oil company or other supplier advertises that the operation will provide free or for less than the operator's usual retail price, such that the operator's income and expense per item are not altered as a result of the oil company's or other supplier's advertising;

(*i*) to an exclusive area for sales of the brand name motor vehicle fuel, where he is required to buy, trade, advertise or sell a brand name motor vehicle fuel exclusively, and such area shall be determined by equitable principles;

(*j*) to be paid fair value for the goodwill of the retail premises developed directly or indirectly by him before he is required to vacate.

Extension of hours for six months

(2) A lessor may require a lessee to extend the hours during which the lessee's business is open to the public for a trial period of not more than six months and where the lessee fails to realize a reasonable profit during that trial period he may revert to his former business hours at the end of the trial period.

Promotion and use of non-branded products

(3) Where a lessee purchases products, including petroleum products, from persons other than the lessor, the lessee shall,

(*a*) maintain a supply of the lessor's branded products sufficient to meet requests for those products from customers of the lessee; and

(*b*) not openly display, promote or advertise products distributed by persons other than the lessor.

Requirements by lessor

5. Subject to the provisions of sections 3 and 4, the lessor may enter into covenants with the lessee on matters relating to,

(*a*) the standard of service to the public to be provided on the retail premises by the lessee;

(*b*) the protection of the lessor's trade mark and brand name by the lessee;

(*c*) the quality and competence of the staff to be employed by the lessee;

(*d*) accounting procedures to be used by the lessee; and

(*e*) the lessee's right to assign the lease or to sublet.

Requirements by lessee

6. The lessee may require the lessor to enter into covenants on matters relating to,

(*a*) the delivery of products including petroleum products by the lessor;

(*b*) the lessor's giving the lessee advice and guidance on operating the retail premises;

(*c*) the use by the lessee of a retail credit system; and

(*d*) the identification of the retail premises by the lessor's brand name or trade mark.

Notice of intention to terminate

7. In the case of a default of any of the terms of the lease, the lessor or the lessee may, on written notice, require the other party to remedy the default within fifteen days of giving the notice and where the default is not remedied in that time, the lessor or the lessee, as the case may be, may terminate the lease on a further seven days written notice.

Offence

8. Every person who violates the rights of a retailer as provided for in this Act is guilty of an offence and on summary conviction is liable to a fine of not more than $25,000.

Commencement

9. This Act comes into force on the day it receives Royal Assent.

Short title

10. This Act may be cited as *The Gasoline Retailers Bill of Rights Act, 1974*.

An Act to establish
The Gasoline Retailers Bill of Rights

1st Reading

May 13th, 1974

2nd Reading

3rd Reading

MR. DEACON

(*Private Member's Bill*)

1974

BILL 68 Government Bill

4TH SESSION, 29TH LEGISLATURE, ONTARIO
23 ELIZABETH II, 1974

An Act to amend The Ministry of Colleges and Universities Act, 1971

THE HON. J. A. C. AULD
Minister of Colleges and Universities

TORONTO
PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO

Explanatory Notes

Section 1. This section establishes the "Ontario Council on University Affairs" which will replace the Committee on University Affairs.

BILL 68 **1974**

An Act to amend The Ministry of Colleges and Universities Act, 1971

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. *The Ministry of Colleges and Universities Act, 1971*, being chapter 66, is amended by adding thereto the following section: s. 4a. enacted

4*a*.—(1) In this section, "Council" means the Ontario Council on University Affairs. Council defined

(2) A council to be known as the "Ontario Council on University Affairs" is hereby established. Council established

(3) The Council shall consist of not fewer than twelve members one of whom shall be a full-time chairman as are appointed by the Lieutenant Governor in Council from time to time for such term as the Lieutenant Governor in Council determines. Composition

(4) Six members of the Council constitute a quorum. Quorum

(5) The chairman, and members of the Council, shall be paid such remuneration and expenses as the Lieutenant Governor in Council from time to time determines. Remuneration and expenses

(6) Such officers and clerks may be appointed from time to time by the Council on the recommendation of the chairman as are deemed necessary for the proper conduct of the business of the Council. Officers and clerks

(7) The objects of the Council are and it has power, Objects and powers

(*a*) to act as an advisory body to the Minister and to the Lieutenant Governor in Council;

(*b*) to make recommendations to the Minister on any matter that, in the opinion of the Council, concerns,

(i) one or more Ontario post-secondary degree granting institutions,

(ii) a post-secondary educational institution, other than an institution referred to in subclause i, designated by the Lieutenant Governor in Council,

(iii) students registered in institutions referred to in subclauses i and ii;

(*c*) to make recommendations in respect of any matter referred to it by the Minister including presentations made to the Minister by the institutions referred to in subclauses i and ii of clause *b*.

Meetings of Council

(8) The Council shall hold meetings open to the public at such times and places as it deems necessary, and shall publish minutes of its meetings from time to time in the form and manner it determines.

Annual report

(9) The Council shall make an annual report to the Minister who shall submit the report to the Lieutenant Governor in Council and the Minister shall then lay the report before the Assembly if it is in session or, if not, at the next ensuing session.

Moneys

(10) The moneys required for the purposes of the Council shall be paid out of the moneys appropriated therefor by the Legislature.

ss. 4*b*, 7*a*, enacted

2. The said Act is further amended by adding thereto the following sections:

Minister may collect information and statistics

4*b*. The Minister, in carrying out his duties and functions under this Act and such other Acts as are assigned to him, may collect such information and statistics as he considers necessary or advisable for this purpose, including the purposes of any advisory body to the Minister, and may publish any information and statistics so collected.

. . . . .

Annual report

7*a*. The Minister shall make an annual report to the Lieutenant Governor in Council upon the affairs of the Ministry and shall then lay the report before the Assembly if it is in session or, if not, at the next ensuing session.

SECTION 2. Self-explanatory.

3. This Act comes into force on the day it receives Royal Assent. Commencement

4. This Act may be cited as *The Ministry of Colleges and Universities Amendment Act, 1974*. Short title

An Act to amend
The Ministry of Colleges and
Universities Act, 1971

1st Reading

May 14th, 1974

2nd Reading

3rd Reading

THE HON. J. A. C. AULD
Minister of Colleges and
Universities

(*Government Bill*)

1974

BILL 69 **Government Bill**

4TH SESSION, 29TH LEGISLATURE, ONTARIO
23 ELIZABETH II, 1974

An Act to authorize the Raising of Money on the Credit of the Consolidated Revenue Fund

THE HON. J. WHITE
Treasurer of Ontario and Minister of Economics
and Intergovernmental Affairs

TORONTO
PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO

BILL 69 **1974**

An Act to authorize the Raising of Money on the Credit of the Consolidated Revenue Fund

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) The Lieutenant Governor in Council is hereby authorized to raise from time to time by way of loan in any manner provided by *The Financial Administration Act* such sum or sums of money as are considered necessary for discharging any indebtedness or obligation of Ontario, for making any payments authorized or required by any Act to be made out of the Consolidated Revenue Fund or for reimbursing the Consolidated Revenue Fund for any moneys expended for any of such purposes, provided that the principal amount of any securities issued and temporary loans raised under the authority of this Act shall not exceed in the aggregate $800,000,000. Loans up to $800,000,000 R.S.O. 1970, c. 166

(2) The sum or sums of money authorized to be raised by subsection 1 for the purposes mentioned therein shall be in addition to all sums of money authorized to be raised by way of loan under any other Act. Idem

2. This Act comes into force on the day it receives Royal Assent. Commencement

3. This Act may be cited as *The Ontario Loan Act, 1974*. Short title

An Act to authorize
the Raising of Money on the Credit
of the Consolidated Revenue Fund

1st Reading

May 16th, 1974

2nd Reading

3rd Reading

THE HON. J. WHITE
Treasurer of Ontario and Minister of
Economics and Intergovernmental
Affairs

(*Government Bill*)

1974

BILL 69

4TH SESSION, 29TH LEGISLATURE, ONTARIO
23 ELIZABETH II, 1974

An Act to authorize the Raising of Money on the Credit of the Consolidated Revenue Fund

THE HON. J. WHITE
Treasurer of Ontario and Minister of Economics
and Intergovernmental Affairs

TORONTO
PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO

BILL 69 **1974**

An Act to authorize the Raising of Money on the Credit of the Consolidated Revenue Fund

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) The Lieutenant Governor in Council is hereby authorized to raise from time to time by way of loan in any manner provided by *The Financial Administration Act* such sum or sums of money as are considered necessary for discharging any indebtedness or obligation of Ontario, for making any payments authorized or required by any Act to be made out of the Consolidated Revenue Fund or for reimbursing the Consolidated Revenue Fund for any moneys expended for any of such purposes, provided that the principal amount of any securities issued and temporary loans raised under the authority of this Act shall not exceed in the aggregate $800,000,000. Loans up to $800,000,000 R.S.O. 1970, c. 166

(2) The sum or sums of money authorized to be raised by subsection 1 for the purposes mentioned therein shall be in addition to all sums of money authorized to be raised by way of loan under any other Act. Idem

2. This Act comes into force on the day it receives Royal Assent. Commencement

3. This Act may be cited as *The Ontario Loan Act, 1974*. Short title

An Act to authorize
the Raising of Money on the Credit
of the Consolidated Revenue Fund

1st Reading

May 16th, 1974

2nd Reading

June 10th, 1974

3rd Reading

June 10th, 1974

THE HON. J. WHITE
Treasurer of Ontario and Minister of
Economics and Intergovernmental
Affairs

1974

BILL 70 Government Bill

4TH SESSION, 29TH LEGISLATURE, ONTARIO
23 ELIZABETH II, 1974

The Denture Therapists Act, 1974

THE HON. F. S. MILLER
Minister of Health

TORONTO
PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO

Explanatory Notes

The Bill re-enacts the legislation governing the practice of denture therapy.

The major provisions of the Bill are:

1. Persons holding subsisting licences as denture therapists will continue to be licensed to engage in the practice of supervised denture therapy under this Act, may apply for and receive provisional licences to engage in the practice of denture therapy and upon completing courses of study approved or set by the Board will be entitled to licences to engage in the practice of denture therapy.

2. Persons licensed to engage in the practice of denture therapy need not work under the supervision of a dental surgeon.

3. The Governing Board of Denture Therapists is established as a corporate body composed of three persons to represent the public interest and six denture therapists, all appointed by the Lieutenant Governor in Council.

BILL 70 **1974**

The Denture Therapists Act, 1974

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. In this Act, Interpretation

(*a*) "Appeal Board" means the Denture Therapists Appeal Board established under section 12;

(*b*) "Board" means the Governing Board of Denture Therapists established under section 2;

(*c*) "Complaints Committee" means the Complaints Committee of the Board established under this Act;

(*d*) "dental surgeon" means a member of The Royal College of Dental Surgeons of Ontario;

(*e*) "denture therapist" means a person licensed under this Act to engage in the practice of denture therapy or the practice of supervised denture therapy;

(*f*) "Discipline Committee" means the Discipline Committee of the Board established under this Act;

(*g*) "Executive Committee" means the Executive Committee of the Board established under this Act;

(*h*) "incompetence" means the display of a lack of knowledge, skill or judgment in the professional care of a patient or disregard for the welfare of a patient of a nature or to an extent that demonstrates that the denture therapist is unfit to continue in the practice of denture therapy or the practice of supervised denture therapy, as the case may be;

(*i*) "licence" means a licence to engage in the practice of denture therapy or the practice of supervised denture therapy as may be specified in the licence, and includes a provisional licence to engage in the practice of denture therapy;

(*j*) "licensee" means a person who is licensed under this Act to engage in the practice of denture therapy or the practice of supervised denture therapy and includes a person who is provisionally licensed to engage in the practice of denture therapy;

(*k*) "Minister" means the Minister of Health;

(*l*) "practice of denture therapy" means,

(i) the taking of impressions or bite registrations for the purpose of, or with a view to, the making, producing, reproducing, constructing, furnishing, supplying, altering or repairing of any complete upper or complete lower prosthetic denture, or both, to be fitted to an edentulous arch,

(ii) the fitting of any complete upper or complete lower prosthetic denture or both, to an edentulous arch, and

(iii) the making, producing, reproducing, constructing, furnishing, supplying, altering and repairing complete upper or complete lower prosthetic dentures or both in respect of which a service is performed under subclause i or ii;

(*m*) "practice of supervised denture therapy" means,

(i) the taking of impressions or bite registrations for the purpose of, or with a view to, the making, producing, reproducing, constructing, furnishing, supplying, altering or repairing of any removable prosthetic denture,

(ii) the fitting of any removable prosthetic denture, and

(iii) the making, producing, reproducing, constructing, furnishing, supplying, altering and repairing removable prosthetic dentures in respect of which a service is performed under subclause i or ii;

(*n*) "professional misconduct" means professional misconduct as defined in the regulations;

(*o*) "Registrar" means the officer of the Board appointed as Registrar under subsection 8 of section 2;

(*p*) "Registration Committee" means the Registration Committee of the Board established under this Act;

(*q*) "regulations" means the regulations made under this Act.

2.—(1) There shall be a board to be known as the Governing Board of Denture Therapists composed of members appointed by the Lieutenant Governor in Council. Governing Board of Denture Therapists

(2) The Board shall be composed of three members representing the public interest and six denture therapists. Composition of Board

(3) The Lieutenant Governor in Council shall designate one of the members of the Board to be the chairman. Chairman

(4) Every member of the Board shall hold office for a period of not more than three years and is eligible for reappointment so long as he does not serve continuously for more than six years. Term of office

(5) Every vacancy on the Board caused by the death, resignation or incapacity of a member may be filled by the appointment by the Lieutenant Governor in Council of a person to hold office for the remainder of the term of such member. Vacancies

(6) The Board is a corporation and for its purposes may purchase, acquire, hold, mortgage, lease and dispose of real and personal property. Board a corporation

(7) Five members of the Board, at least one of whom shall be a member appointed to represent the public interest, constitute a quorum. Quorum

(8) The Board may employ such officers and employees as are considered necessary for carrying out the duties and functions of the Board and shall appoint an officer of the Board as Registrar. Staff

(9) The objects of the Board are, Objects

(*a*) to regulate the practice of denture therapy and the practice of supervised denture therapy;

(*b*) to establish, maintain and develop standards of knowledge and skill among denture therapists;

(*c*) to establish, maintain and develop standards of qualification and practice for the practice of denture therapy and the practice of supervised denture therapy;

(*d*) to establish, maintain and develop standards of professional ethics among licensees,

in order that the public interest may be served and protected.

Duties

(10) The Board shall,

(*a*) review the operation of this Act and the regulations and make recommendations to the Minister thereon;

(*b*) approve or set courses of study and examinations for the qualification of applicants for licences;

(*c*) perform such other duties as are assigned to it by this Act or the regulations or by any other Act.

Remuneration

(11) The members of the Board shall be paid such remuneration for their services and allowances for expenses as is fixed by the Lieutenant Governor in Council.

Practice of denture therapy

3.—(1) No person, other than a dental surgeon or a person licensed under this Act as a denture therapist, shall engage in or hold himself out as qualified or entitled to engage in the practice of denture therapy or the practice of supervised denture therapy.

Exception

(2) Subsection 1 does not apply to a student attending a course of study set or approved by the Board and acting under the personal supervision of a person licensed under this Act to engage in the practice of denture therapy for the purpose of completing qualifying studies or practical experience required under the regulations.

Proof of practice

(3) For the purpose of subsection 1, proof of the performance of one act in the practice of denture therapy or the practice of supervised denture therapy on one occasion is sufficient to establish engaging in the practice of denture therapy or the practice of supervised denture therapy, as the case may be.

Issuance of licences

4.—(1) The Registrar shall issue a licence to any applicant therefor who is qualified under this Act and the regulations

and has passed such examinations as the Board may set or approve, and the Registrar shall refer to the Registration Committee every application for a licence that he proposes to refuse or to which he considers terms, conditions or limitations should be attached.

Powers and duties of Registration Committee

(2) The Registration Committee,

(*a*) shall determine the eligibility of applicants for licences and may require an applicant to take and pass such additional examinations as the Board may set or approve and pay such fees therefor as the Registration Committee fixes or to take such additional training as the Registration Committee specifies; and

(*b*) may exempt an applicant from any licensing requirement.

Idem

(3) The Registration Committee may direct the Registrar to issue or refuse to issue licences or to issue licences subject to such terms, conditions and limitations as the Committee specifies.

Review of qualifications

(4) The Registration Committee may review the qualifications of any licensee and may impose a term, condition or limitation on his licence pending the demonstration of such standard of competence through the completion of such experience, courses of study or continuing education as the Committee specifies.

Registers of licensees

(5) The Registrar shall maintain one or more registers in which is entered every person who is licensed to engage in the practice of denture therapy or the practice of supervised denture therapy, identifying the terms, conditions and limitations attached to the licence, and shall note on the register every revocation, suspension and cancellation of a licence and such other information as the Registration Committee or Discipline Committee directs.

Licences under 1972, c. 163

(6) A valid licence issued under *The Denture Therapists Act, 1972* that is in existence immediately before this Act comes into force shall be deemed to be a licence under this Act to engage in the practice of supervised denture therapy.

Provisional licences

(7) The Registrar shall issue a provisional licence to engage in the practice of denture therapy to every holder of a valid licence under *The Denture Therapists Act, 1972* that is in existence immediately before this Act comes into force and who applies to the Registrar in accordance with

the regulations for such provisional licence within one month after this Act comes into force and every provisional licence expires six months after the date of its issuance or upon the issuance to the provisional licensee of a licence to engage in the practice of denture therapy pursuant to subsection 8, whichever first occurs.

Idem

(8) The Registrar shall issue a licence to engage in the practice of denture therapy to a person who is a provisional licensee and who has taken the courses of study required or set by the Board.

Practice of supervised denture therapy

(9) No licensee whose licence is limited to the practice of supervised denture therapy shall practise intra-oral procedures of denture therapy on a patient except in the office of a dental surgeon or dental clinic and under the direct supervision of a dental surgeon.

Idem

(10) A person who is licensed to engage in the practice of denture therapy may also engage in the practice of supervised denture therapy but shall not practise intra-oral procedures associated with the practice of supervised denture therapy that are not associated with the practice of denture therapy on a patient except in the office of a dental surgeon or dental clinic and under the direct supervision of a dental surgeon.

Duty of dental surgeon

(11) Every dental surgeon who uses the services of a denture therapist shall personally supervise the work of the denture therapist on a patient and shall inform himself of all aspects of the progress of the work.

Acts outside scope of practice

(12) No licensed denture therapist shall perform any act in the practice of dentistry except within the scope of the practice of denture therapy or supervised denture therapy performed in the manner required by this Act.

Cancellation for default of fees

(13) The Registrar may cancel a licence for non-payment of any prescribed fee after giving the licensee at least two months notice of the default and intention to cancel, subject to the continuing jurisdiction of the Board in respect of any disciplinary action arising out of his professional conduct while a licensee.

Establishment of committees

5.—(1) The Board shall establish and appoint as hereinafter provided the following committees,

(*a*) Executive Committee;

(*b*) Registration Committee;

(*c*) Complaints Committee;

(*d*) Discipline Committee,

and may establish such other committees as the Board from time to time considers necessary.

(2) Where one or more vacancies occur in the membership of any committee, the members remaining in office constitute the committee so long as their number is not fewer than the prescribed quorum. Vacancies

6.—(1) The Executive Committee shall be composed of three persons who are members of the Board of whom one shall be a person appointed to represent the public interest. Executive Committee

(2) Two members of the Executive Committee constitute a quorum. Quorum

(3) The Executive Committee shall perform such functions of the Board as are delegated to it by the Board, the by-laws or this Act and, subject to ratification by the Board at its next ensuing meeting, may take action upon any other matter that requires immediate attention between meetings of the Board, other than to make, amend or revoke a regulation or by-law. Duties

7.—(1) The Registration Committee shall be composed of four members of the Board of whom one shall be a person appointed to represent the public interest. Registration Committee

(2) The Board shall name one member of the Registration Committee to be chairman. Chairman

(3) Three members of the Registration Committee constitute a quorum. Quorum

8.—(1) The Complaints Committee shall be composed of four members of the Board of whom one shall be a person appointed to represent the public interest. Complaints Committee

(2) No person who is a member of the Discipline Committee shall be a member of the Complaints Committee. Idem

(3) The Board shall name one member of the Complaints Committee to be its chairman. Chairman

(4) Three members of the Complaints Committee constitute a quorum. Quorum

Duties

9.—(1) The Complaints Committee shall consider and investigate complaints made by members of the public or members of the Board regarding the conduct or actions of any person licensed or provisionally licensed under this Act, but no action shall be taken by the Committee under subsection 2 unless,

(*a*) a written complaint has been filed with the Registrar and the person whose conduct or actions are being investigated has been notified of the complaint and given at least two weeks in which to submit in writing to the Committee any explanations or representations he may wish to make concerning the matter; and

(*b*) the Committee has examined or has made every reasonable effort to examine all records and other documents relating to the complaint.

Idem

(2) The Committee in accordance with the information it receives may direct that,

(*a*) the matter be referred in whole or in part to the Discipline Committee; or

(*b*) the matter not be referred under clause *a*; or

(*c*) take such action as it considers appropriate in the circumstances and that is not inconsistent with this Act or the regulations or by-laws.

Decision

(3) The Committee shall give its decision in writing to the Registrar for the purposes of section 14 and, where the decision is taken under clause *b* of subsection 2, written reasons therefor.

Discipline Committee

10.—(1) The Discipline Committee shall be composed of five members of the Board, of whom two shall be persons appointed to represent the public interest.

Quorum and votes

(2) Three or more members of the Discipline Committee, of whom one shall be a person appointed to represent the public interest, constitute a quorum and all disciplinary decisions require the vote of a majority of the members present at the meeting.

Chairman

(3) The Board shall name one member of the Discipline Committee to be its chairman.

Reference by Board or Executive Committee

(4) Notwithstanding any other provision of this Act, the Board or the Executive Committee may direct the Discipline Committee to hold a hearing and determine any specified allegation of professional misconduct or incompetence on the part of a licensee.

11.—(1) The Discipline Committee shall, Duties of Discipline Committee

(*a*) when so directed by the Board, Executive Committee or Complaints Committee, hear and determine allegations of professional misconduct or incompetence against any licensee;

(*b*) hear and determine matters referred to it by the Board, Registrar, Executive Committee or Complaints Committee pursuant to this Act; and

(*c*) perform such other duties as are assigned to it by the Board.

(2) In the case of hearings into allegations of professional misconduct or incompetence, the Discipline Committee shall, Idem

(*a*) consider the allegations, hear the evidence and ascertain the facts of the case;

(*b*) determine whether upon the evidence and the facts so ascertained the allegations have been proved;

(*c*) determine whether in respect of the allegations so proved the licensee is guilty of professional misconduct or incompetence;

(*d*) determine the penalty to be imposed as hereinafter provided in cases in which it finds the licensee guilty of professional misconduct or of incompetence.

(3) A licensee may be found guilty of professional misconduct by the Committee if, Professional misconduct

(*a*) he has been found guilty of an offence relevant to his suitability to practise, upon proof of such conviction; or

(*b*) he has been guilty in the opinion of the Discipline Committee of professional misconduct as defined in the regulations.

(4) The Discipline Committee may find a licensee to be incompetent if in its opinion he has displayed in his professional care of a patient a lack of knowledge, skill or judgment or disregard for the welfare of the patient of a nature or to an extent that demonstrates he is unfit to continue in practice. Incompetence

Powers of Discipline Committee

(5) Where the Discipline Committee finds a licensee guilty of professional misconduct or incompetence it may by order,

(*a*) revoke the licence of the licensee;

(*b*) suspend the licence of the licensee for a stated period;

(*c*) impose such restrictions on the licence of the licensee for such a period and subject to such conditions as the Committee designates;

(*d*) reprimand the licensee, and if deemed warranted, direct that the fact of such reprimand be recorded on the register;

(*e*) direct that the imposition of a penalty be suspended or postponed for such period and upon such terms as the Committee designates,

or any combination thereof.

Costs

(6) Where the Discipline Committee is of the opinion that the commencement of the proceedings was unwarranted, the Committee may order that the Board reimburse the licensee for his costs or such portion thereof as the Discipline Committee fixes.

Stay on appeal for incompetence

(7) Where the Discipline Committee revokes, suspends or restricts a licence on the grounds of incompetence, the decision takes effect immediately notwithstanding that an appeal is taken from the decision.

Stay on appeal for professional misconduct

(8) Where the Discipline Committee revokes, suspends or restricts a licence on grounds other than for incompetence, the order shall not take effect until the time for appeal from the order has expired without an appeal being taken or, if taken, the appeal has been disposed of or abandoned.

Service of decision of Discipline Committee

(9) Where the Discipline Committee finds a licensee guilty of professional misconduct or incompetence, a copy of the decision shall be served upon the person complaining in respect of the conduct or action of the licensee.

Continuation on expiry of Committee membership

(10) Where a proceeding is commenced before the Discipline Committee and the term of office on the Board or on the Committee of a member sitting for the hearing expires or is terminated before the proceeding is disposed of but after evidence has been heard, the member shall be

deemed to remain a member of the Discipline Committee for the purpose of completing the disposition of the proceeding in the same manner as if his term of office had not expired or been terminated.

12.—(1) There is hereby established a board to be known as the Denture Therapists Appeal Board. Denture Therapists Appeal Board

(2) The Appeal Board shall be composed of not fewer than five and not more than seven members who shall be appointed by the Lieutenant Governor in Council and the Lieutenant Governor in Council shall designate one of the members of the Appeal Board to be chairman and one to be vice-chairman. Composition

(3) No person who is employed in the public service of Ontario or of any agency of the Crown, or who is or has been a member of the governing body of a health discipline or who is or has been registered under this Act or any other Act governing a health practice shall be a member of the Appeal Board. Disqualification

(4) The members of the first Appeal Board may be appointed for a term of one, two or three years and thereafter appointments and reappointments shall be for a term of three years. Term

(5) Every vacancy on the Appeal Board caused by the death, resignation or incapacity of a member, may be filled by the appointment by the Lieutenant Governor in Council of a person to hold office for the remainder of the term of such member. Vacancies

(6) A majority of the members of the Appeal Board constitutes a quorum. Quorum

(7) The members of the Appeal Board shall be paid such remuneration and expenses as are determined by the Lieutenant Governor in Council. Remuneration

(8) The Appeal Board may prescribe and adopt a seal. Seal

(9) Such employees as are necessary to carry out the duties of the Appeal Board under this Act shall be employed under *The Public Service Act*. Appeal Board employees R.S.O. 1970, c. 386

(10) The members of the Appeal Board shall be paid such remuneration for their services and allowances for expenses as is fixed by the Lieutenant Governor in Council. Remuneration

Duties of Appeal Board

13.—(1) The Appeal Board shall,

(*a*) conduct such hearings and perform such duties as are assigned to it by or under this Act; and

(*b*) submit an annual report on its activities to the Minister and which shall include such information as the Minister may require.

Expert or professional advice

(2) The Appeal Board may seek expert or professional advice from an adviser independent from the parties and in such case the nature of the advice shall be made known to the parties in order that they may make submissions as to the advice.

Complaints

14.—(1) Where the Complaints Committee has made a disposition of a complaint respecting a licensee in accordance with the provisions of this Act, the Registrar shall send to the licensee and to the complainant by prepaid first class mail, a copy of the written decision made by the Complaints Committee including reasons therefor, if any, together with notice advising the complainant of his right of review under subsection 2.

Review of complaints

(2) A complainant or the licensee complained against who is not satisfied with the decision made by the Complaints Committee disposing of a complaint, except a decision to refer a matter to the Discipline Committee, may within twenty days of receipt of the written decision request the Appeal Board to review the decision and the Appeal Board shall require the Registrar to transmit to the Appeal Board within fifteen days of the Appeal Board's request, a record of the investigation and all such documents and things upon which the decision was based and the Appeal Board shall review the decision after giving the complainant and the licensee an opportunity to make representations.

Investigation of complaint by Appeal Board

15. Where a complaint respecting a licensee has not been disposed of by the Complaints Committee within sixty days after the complaint is made, the Appeal Board upon application therefor may require the Complaints Committee to make an investigation and, where the investigation of the complaint has not been undertaken, completed and reported on to the Appeal Board by the committee within sixty days after the Appeal Board's request, the Appeal Board shall undertake such investigation and possesses all the powers of investigation that the Complaints Committee or the Registrar has conferred upon it in this Act.

Powers of Appeal Board after review or investigation of complaint

16.—(1) The Appeal Board may after review or investigation of a complaint under section 14 or 15 refer the complaint to the Complaints Committee and the Appeal Board may,

(*a*) confirm the decision, if any, made by the Complaints Committee;

(*b*) make such recommendations to the Complaints Committee as the Appeal Board considers appropriate; or

(*c*) require the Complaints Committee to take such action or proceedings as the committee is authorized to undertake under this Act.

Appeal Board quorum

(2) Three members of the Appeal Board constitute a quorum for purposes of investigation or review of a complaint or for a hearing.

Decision and reasons

(3) The Appeal Board shall give its decision and reasons therefor in writing to the complainant and the licensee complained against.

Notice of proposal to refuse registration

17.—(1) Where the Registration Committee proposes to refuse to grant a licence to an applicant, or proposes to attach terms, conditions or limitations to a registration, the Registrar on behalf of the committee shall serve notice of the proposal of the committee, together with written reasons therefor, on the applicant or licensee and a copy thereof to the Appeal Board.

Exemptions

(2) Subsection 1 does not apply to a refusal to grant a licence to a person who was previously licensed and whose licence was suspended or revoked as a result of a decision of the Discipline Committee.

Notice requiring hearing or review

(3) A notice under subsection 1 shall inform the applicant or licensee that he is entitled to a hearing by the Appeal Board or to a review by the Appeal Board of his application and documentary evidence in support thereof without oral evidence, if he mails or delivers within fifteen days after the notice under subsection 1 is served on him, notice in writing to the Appeal Board requiring a hearing or such review by the Appeal Board, as he specifies.

Powers of Registration Committee where hearing or review

(4) Where an applicant or licensee does not require a hearing or review by the Appeal Board in accordance with subsection 3, the Appeal Board shall so notify the Registration Committee and the committee may carry out the proposal stated in its notice under subsection 1.

Findings of fact

(5) The findings of fact of the Appeal Board pursuant to a hearing or review shall be based exclusively on evidence admissible or matters that may be noticed under sections 15 and 16 of *The Statutory Powers Procedure Act, 1971*. 1971, c. 47

Procedures on hearings

(6) The provisions of subsections 2 to 5 and subsections 7 and 8 of section 18 apply *mutatis mutandis* to proceedings before the Appeal Board under this section.

Powers of Appeal Board upon hearing or review

(7) The Appeal Board shall, after the hearing or review,

(*a*) confirm the proposed decision of the Registration Committee; or

(*b*) require the Registration Committee to permit the applicant to take qualifying examinations or additional training as a condition for licensing, or both as specified by the Registration Committee; or

(*c*) require the Registration Committee to direct the Registrar to register the applicant on any appropriate register subject to such conditions as the Appeal Board considers appropriate in cases where the Appeal Board finds that the applicant meets the requirements for licensing and that the committee has exercised its powers improperly; or

(*d*) refer the matter back to the Registration Committee for further consideration and the Appeal Board may make such recommendations as it considers appropriate in the circumstances.

Parties

(8) The Registration Committee and the applicant or licensee are parties to proceedings before the Appeal Board under this section.

Appeals

(9) Any party to proceedings before the Appeal Board under this section may appeal from its decision or order to the Supreme Court in accordance with the rules of court and the provisions of section 19 apply *mutatis mutandis* as if it were an appeal from a decision or order of the Discipline Committee.

Parties to discipline proceedings

18.—(1) In proceedings before the Discipline Committee, the Board and the licensee whose conduct is being investigated in the proceedings are parties to the proceedings.

Examination of documentary evidence

(2) A licensee whose conduct is being investigated in proceedings before the Discipline Committee shall be afforded an opportunity to examine before the hearing any written or documentary evidence that will be produced or any report the contents of which shall be given in evidence at the hearing.

Members holding hearing not to have taken part in investigation, etc.

(3) Members of the Discipline Committee holding a hearing shall not have taken part before the hearing in any investigation of the subject-matter of the hearing other than as a member of the Board considering the referral of the matter to the Discipline Committee or at a previous hearing of the Committee, and shall not communicate directly or indirectly in relation to the subject-matter of the hearing

with any person or with any party or his representative except upon notice to and opportunity for all parties to participate, but the committee may seek legal advice from an adviser independent from the parties and in such case the nature of the advice shall be made known to the parties in order that they may make submissions as to the law.

In camera 1971, c. 47

(4) Notwithstanding anything in *The Statutory Powers Procedure Act, 1971*, hearings of the Discipline Committee shall be held *in camera*, but, if the person whose conduct is being investigated requests otherwise by a notice delivered to the Registrar before the day fixed for the hearing, the committee shall conduct the hearing in public except where,

(*a*) matters involving public security may be disclosed; or

(*b*) the possible disclosure of intimate financial or personal matters outweighs the desirability of holding the hearing in public.

Recording of evidence

(5) The oral evidence taken before the Discipline Committee shall be recorded and, if so required, copies or a transcript thereof shall be furnished only to the parties at their own cost.

Evidence

(6) Notwithstanding *The Statutory Powers Procedure Act, 1971* nothing is admissible in evidence before the Discipline Committee that would be inadmissible in a court in a civil case and the findings of the Discipline Committee shall be based exclusively on evidence admitted before it.

Only members at hearing to participate in decision

(7) No member of the Discipline Committee shall participate in a decision of the committee pursuant to a hearing unless he was present throughout the hearing and heard the evidence and argument of the parties.

Release of documentary evidence

(8) Documents and things put in evidence at a hearing of the Discipline Committee shall, upon the request of the person who produced them, be released to him by the committee within a reasonable time after the matter in issue has been finally determined.

Appeal to court

19.—(1) Any party to proceedings before the Discipline Committee may appeal from its decision or order to the Supreme Court in accordance with the rules of court.

Powers of court on appeal

(2) An appeal under this section may be made on questions of law or fact or both and the court may affirm

or may rescind the decision of the committee appealed from and may exercise all powers of the committee and may direct the committee or the Board to take any action which the committee or the Board may take and as the court considers proper, and for such purposes the court may substitute its opinion for that of the committee, or the court may refer the matter back to the committee for rehearing, in whole or in part, in accordance with such directions as the court considers proper.

Restoration of licence

20.—(1) A person whose licence has been revoked or suspended for cause under this Act may apply in writing to the Registrar for the issuance of a licence or removal of the suspension, but such application shall not be made sooner than one year after the revocation or cancellation or, where the suspension is for more than one year, one year after the suspension.

Reference to Discipline Committee

(2) The Registrar shall refer the application to the Discipline Committee which shall hold a hearing respecting and decide upon the application, and shall report its decision and reasons to the Board and to the former licensee.

Procedures

(3) The provisions of this Act applying to proceedings of the Appeal Board on hearings and review in respect of applications for registration, except subsection 9 of section 17 apply, *mutatis mutandis*, to proceedings of the Registration Committee and Discipline Committee under this section.

Investigation of members

21.—(1) Where the Registrar believes on reasonable and probable grounds that a licensee has committed an act of professional misconduct or incompetence or that any premises are being used by any person to engage in the practice of denture therapy without being licensed under this Act, the Registrar may by order appoint one or more persons to make an investigation to ascertain whether such an act has occurred, and the person appointed shall report the result of his investigation to the Registrar.

Powers of investigator

(2) For purposes relevant to the subject-matter of an investigation under this section, the person appointed to make the investigation may inquire into and examine the practice of the licensee in respect of whom the investigation is being made and may, upon production of his appointment, enter at any reasonable time the business premises of such person or the premises that he believes upon reasonable and probable grounds are being used to engage in the practice of denture therapy by a person without a licence under this Act and examine books, records, documents and things relevant to

the subject-matter of the investigation, and for the purposes of the inquiry, the person making the investigation has the powers of a commission under Part II of *The Public Inquiries Act, 1971*, which Part applies to such inquiry as if it were an inquiry under that Act. 1971, c. 49

(3) No person shall obstruct a person appointed to make an investigation under this section or withhold from him or conceal or destroy any books, records, documents or things relevant to the subject-matter of the investigation. Obstruction of investigator

(4) Where a provincial judge is satisfied, upon an *ex parte* application by the person making an investigation under this section, that the investigation has been ordered and that such person has been appointed to make it and that there is reasonable ground for believing there are in any building, dwelling, receptacle or place any books, records, documents or things relating to the person whose affairs are being investigated and to the subject-matter of the investigation, the provincial judge may, whether or not an inspection has been made or attempted under subsection 2, issue an order authorizing the person making the investigation, together with such police officer or officers as he calls upon to assist him, to enter and search, if necessary by force, such building, dwelling, receptacle or place for such books, records, documents or things and to examine them, but every such entry and search shall be made between sunrise and sunset unless the provincial judge, by the order, authorizes the person making the investigation to make the search at night. Search warrant

(5) Any person making an investigation under this section may, upon giving a receipt therefor, remove any books, records, documents or things examined under subsection 2 or 4 relating to the person whose practice is being investigated and to the subject-matter of the investigation for the purpose of making copies of such books, records or documents, but such copying shall be carried out with reasonable dispatch and the books, records or documents in question shall be promptly thereafter returned to the person whose practice is being investigated. Removal of books, etc.

(6) Any copy made as provided in subsection 5 and certified to be a true copy by the person making the investigation is admissible in evidence in any action, proceeding or prosecution as *prima facie* proof of the original book, record or document and its contents. Admissibility of copies

(7) The Registrar shall report the results of the investigation to the Board or the Executive Committee or to such other committee as he considers appropriate. Report of Registrar

Matters confidential

22.—(1) Every person employed in the administration of this Act, including any person making an inquiry or investigation under section 21 and any member of the Board or a Committee shall preserve secrecy with respect to all matters that come to his knowledge in the course of his duties, employment, inquiry or investigation under section 21 and shall not communicate any such matters to any other person except,

(*a*) as may be required in connection with the administration of this Act and the regulations and by-laws or any proceedings under this Act or the regulations;

(*b*) to his counsel; or

(*c*) with the consent of the person to whom the information relates.

Testimony in civil suit

(2) No person to whom subsection 1 applies shall be required to give testimony in any civil suit or proceeding with regard to information obtained by him in the course of his duties, employment, inquiry or investigation except in a proceeding under this Act or the regulations or by-laws.

Regulations

23.—(1) Subject to the approval of the Lieutenant Governor in Council and with prior review by the Minister, the Board may make regulations,

(*a*) respecting any matter ancillary to the provisions of this Act with regard to the issuing, suspension and revocation of licences;

(*b*) prescribing classes of licences and governing the requirements and qualifications for the issuing of licences or any class thereof and prescribing the terms and conditions thereof;

(*c*) providing for the maintenance and inspection of registers of persons permitted to practise;

(*d*) governing standards of practice for the profession;

(*e*) authorizing persons other than licensees to perform specified acts in the practice of denture therapy under the supervision or direction of a licensee;

(*f*) prohibiting the practice of denture therapy where there is a conflict of interest and defining the activities that shall constitute a conflct of interest for the purpose;

(*g*) defining professional misconduct for the purposes of this Act;

(*h*) providing for a program of continuing education of licensees to maintain their standard of competence and requiring licensees to participate in such continuing education;

(*i*) providing for the establishment and operation of an appraisal committee for the purposes of examining and assessing the standard of practice of licensees and reporting thereon to the Board and examining and assessing the standards of practice, qualifications and continuing education of members and making recommendations to the Registration Committee thereon;

(*j*) regulating, controlling and prohibiting the use of terms, titles or designations by licensees or groups or associations of licensees in respect of their practices;

(*k*) respecting the reporting and publication of decisions in disciplinary matters;

(*l*) providing for the compilation of statistical information on the supply, distribution and professional activities of licensees and requiring licensees to provide the information necessary to compile such statistics;

(*m*) respecting the duties and authority of the Registrar;

(*n*) requiring and providing for the inspection and examination of the office, records and equipment of licensees in connection with their practice;

(*o*) prescribing the records that shall be kept respecting patients;

(*p*) requiring the payment of annual fees by licensees and fees for licensing, examinations and continuing education, including penalties for late payment, and fees for anything the Registrar is required or authorized to do, and prescribing the amounts thereof;

(*q*) prescribing forms and providing for their use;

(*r*) providing for the exemption of any licensee from any provision of the regulations under such special circumstances in the public interest as the Board considers advisable.

Regulations by Lieutenant Governor in Council

(2) Where the Minister requests in writing that the Board make, amend or revoke a regulation under subsection 1 and the Board has failed to do so within sixty days after the request, the Lieutenant Governor in Council may make the regulation, amendment or revocation specified in the request.

By-laws

24.—(1) The Board may pass by-laws relating to the administrative and domestic affairs of the Board not inconsistent with this Act and the regulations and without limiting the generality of the foregoing,

(*a*) prescribing the seal of the Board;

(*b*) providing for the execution of documents by the Board;

(*c*) respecting banking and finance;

(*d*) fixing the financial year of the Board and providing for the audit of the accounts and transactions of the Board;

(*e*) respecting the calling, holding and conducting of meetings of the Board and the duties of members of the Board;

(*f*) respecting the calling, holding and conducting of meetings of licensees;

(*g*) providing for the appointment, composition, powers and duties of such additional or special committees as may be required;

(*h*) delegating to the Executive Committee such powers and duties of the Board as are set out in the by-law, other than the power to make, amend or revoke regulations and by-laws;

(*i*) providing for a code of ethics;

(*j*) prescribing forms and providing for their use;

(*k*) providing procedures for the making, amending and revoking of the by-laws;

(*l*) respecting management of the property of the Board;

(*m*) respecting the application of the funds of the Board and the investment and reinvestment of any of its funds not immediately required, and for the safekeeping of its securities;

(*n*) providing for the entering into arrangements by the Board for licensees respecting indemnity for professional liability and respecting the payment and remittance of premiums in connection therewith and prescribing levies to be paid by licensees and exempting licensees or any class thereof from all or part of any such levy;

(*o*) respecting membership of the Board in a national organization with similar functions, the payment of an annual assessment and provision for representatives at meetings;

(*p*) providing for the appointment of inspectors for the purposes of this Act;

(*q*) respecting all of the things that are considered necessary for the efficient conduct of the affairs of the Board.

Distribution of by-laws

(2) A copy of the by-laws made under subsection 1 and amendments thereto,

(*a*) shall be forwarded to the Minister;

(*b*) shall be forwarded to each licensee; and

(*c*) shall be available for public inspection in the office of the Board.

Restraining orders

25.—(1) Where it appears to the Board that any person does not comply with any provision of this Act or the regulations, notwithstanding the imposition of any penalty in respect of such non-compliance and in addition to any other rights it may have, the Board may apply to a judge of the High Court for an order directing such person to comply with such provision, and upon the application the judge may make such order or such other order as the judge thinks fit.

Appeal

(2) An appeal lies to the Supreme Court from an order made under subsection 1.

Penalties

26.—(1) Every person who is in contravention of section 3 is guilty of an offence and on summary conviction is liable for the first offence to a fine of not more than $2,000 and for each subsequent offence to a fine of not more than $2,000 or to imprisonment for a term of not more than six months, or to both.

Idem

(2) Every person who, not being a licensee, uses an occupational designation prescribed or prohibited by the regulations to be used by licensees or a like designation is guilty of an offence and on summary conviction is liable for the first offence to a fine of not more than $1,000 and for each subsequent offence to a fine of not more than $2,000.

Idem

(3) Any person who obstructs a person appointed to make an investigation under section 21 in the course of his duties is guilty of an offence and on summary conviction is liable to a fine not exceeding $2,000.

Service of notice

27.—(1) Except where otherwise provided, any notice or document required by this Act to be served may be served personally or by prepaid first class mail addressed to the person to whom notice is to be given at his last known address and, where notice is served by mail, the service shall be deemed to have been made on the fifth day after the day of mailing unless the person to whom notice is given establishes that he, acting in good faith, through absence, accident, illness or other cause beyond his control, did not receive the notice, or did not receive the notice until a later date.

Administering oaths

(2) Every member of the Appeal Board and of the Discipline Committee has power to administer oaths and affirmations for the purposes of any of its proceedings.

Registrar's certificate as evidence

28. Any statement containing information from the records required to be kept by the Registrar under this Act, purporting to be certified by the Registrar under the seal of the Board is admissible in evidence in all courts as *prima facie* proof of the facts stated therein without proof of the appointment or signature of the Registrar and without proof of the seal.

Immunity of Appeal Board and committees

29. No action or other proceeding for damages shall be instituted against the Appeal Board, the Board, a committee of the Board or any member of the Appeal Board, the Board or committee, or any officers, employees, agents or appointees of the Appeal Board or the Board for any act done in good faith in the performance or intended performance of any duty or in the exercise or the intended exercise of any power under this Act, a regulation or a by-law, or for any neglect or default in the performance or exercise in good faith of such duty or power.

Limitation for commencing actions

30. No licensee is liable to any action for negligence or malpractice, by reason of professional services requested or rendered unless such action is commenced within two years

from the date when, in the matter complained of, such services terminated, except that the court may extend the time for commencing an action, either before or after the time so limited, on such terms as it considers proper, where it is satisfied that there are *prima facie* grounds for relief and that no substantial prejudice or hardship will result to any person affected by reason of the delay.

Falsification of certificates

31.—(1) Any person who makes or causes to be made any wilful falsification in any matter relating to a register or issues a false licence, certificate or document with respect to registration is guilty of an offence and on summary conviction is liable to a fine of not more than $5,000.

Offences for false representation

(2) Any person who wilfully procures or attempts to procure himself to be licensed or registered under this Act by knowingly making any false representation or declaration or by making a fraudulent representation or declaration, either orally or in writing, is guilty of an offence and on summary conviction is liable to a fine of not more than $5,000 and every person knowingly aiding and assisting him therein is guilty of an offence and on summary conviction is liable to a fine of not more than $5,000.

Onus of proof respecting licensing

32. Where licensing under this Act is required to permit the lawful doing of any act or thing, if in any prosecution it is proven that the accused has done such act or thing, the burden of proving that he was so licensed under this Act rests upon the accused.

Repeal

33. *The Denture Therapists Act, 1972*, being chapter 163, is repealed.

Commencement

34. This Act comes into force on a day to be named by proclamation of the Lieutenant Governor.

Short title

35. This Act may be cited as *The Denture Therapists Act, 1974*.

The Denture Therapists Act, 1974

1st Reading

May 16th, 1974

2nd Reading

3rd Reading

THE HON. F. S. MILLER
Minister of Health

(*Government Bill*)

1974

BILL 70 **Government Bill**

4TH SESSION, 29TH LEGISLATURE, ONTARIO
23 ELIZABETH II, 1974

The Denture Therapists Act, 1974

THE HON. F. S. MILLER
Minister of Health

(Reprinted as amended by the Committee of the Whole House)

TORONTO
PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO

Explanatory Notes

The Bill re-enacts the legislation governing the practice of denture therapy.

The major provisions of the Bill are:

1. Persons holding subsisting licences as denture therapists will continue to be licensed to engage in the practice of supervised denture therapy under this Act, may apply for and receive provisional licences to engage in the practice of denture therapy and upon completing courses of study approved or set by the Board will be entitled to licences to engage in the practice of denture therapy.

2. Persons licensed to engage in the practice of denture therapy need not work under the supervision of a dental surgeon.

3. The Governing Board of Denture Therapists is established as a corporate body composed of three persons to represent the public interest and six denture therapists, all appointed by the Lieutenant Governor in Council.

BILL 70 **1974**

The Denture Therapists Act, 1974

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. In this Act, Interpretation

(*a*) "Appeal Board" means the Denture Therapists Appeal Board established under section 12;

(*b*) "Board" means the Governing Board of Denture Therapists established under section 2;

(*c*) "Complaints Committee" means the Complaints Committee of the Board established under this Act;

(*d*) "dental surgeon" means a member of The Royal College of Dental Surgeons of Ontario;

(*e*) "denture therapist" means a person licensed under this Act to engage in the practice of denture therapy or the practice of supervised denture therapy;

(*f*) "Discipline Committee" means the Discipline Committee of the Board established under this Act;

(*g*) "Executive Committee" means the Executive Committee of the Board established under this Act;

(*h*) "incompetence" means the display of a lack of knowledge, skill or judgment in the professional care of a patient or disregard for the welfare of a patient of a nature or to an extent that demonstrates that the denture therapist is unfit to continue in the practice of denture therapy or the practice of supervised denture therapy, as the case may be;

(*i*) "licence" means a licence to engage in the practice of denture therapy or the practice of supervised denture therapy as may be specified in the licence, and includes a provisional licence to engage in the practice of denture therapy;

(*j*) "licensee" means a person who is licensed under this Act to engage in the practice of denture therapy or the practice of supervised denture therapy and includes a person who is provisionally licensed to engage in the practice of denture therapy;

(*k*) "Minister" means the Minister of Health;

(*l*) "practice of denture therapy" means,

(i) the taking of impressions or bite registrations for the purpose of, or with a view to, the making, producing, reproducing, constructing, furnishing, supplying, altering or repairing of any complete upper or complete lower prosthetic denture, or both, to be fitted to an edentulous arch,

(ii) the fitting of any complete upper or complete lower prosthetic denture or both, to an edentulous arch, and

(iii) the making, producing, reproducing, constructing, furnishing, supplying, altering and repairing complete upper or complete lower prosthetic dentures or both in respect of which a service is performed under subclause i or ii;

(*m*) "practice of supervised denture therapy" means,

(i) the taking of impressions or bite registrations for the purpose of, or with a view to, the making, producing, reproducing, constructing, furnishing, supplying, altering or repairing of any removable prosthetic denture,

(ii) the fitting of any removable prosthetic denture, and

(iii) the making, producing, reproducing, constructing, furnishing, supplying, altering and repairing removable prosthetic dentures in respect of which a service is performed under subclause i or ii;

(*n*) "professional misconduct" means professional misconduct as defined in the regulations;

(*o*) "Registrar" means the officer of the Board appointed as Registrar under subsection 8 of section 2;

(*p*) "Registration Committee" means the Registration Committee of the Board established under this Act;

(*q*) "regulations" means the regulations made under this Act.

2.—(1) There shall be a board to be known as the Governing Board of Denture Therapists composed of members appointed by the Lieutenant Governor in Council. Governing Board of Denture Therapists

(2) The Board shall be composed of three members representing the public interest and six denture therapists. Composition of Board

(3) The Lieutenant Governor in Council shall designate one of the members of the Board to be the chairman. Chairman

(4) Every member of the Board shall hold office for a period of not more than three years and is eligible for reappointment so long as he does not serve continuously for more than six years. Term of office

(5) Every vacancy on the Board caused by the death, resignation or incapacity of a member may be filled by the appointment by the Lieutenant Governor in Council of a person to hold office for the remainder of the term of such member. Vacancies

(6) The Board is a corporation and for its purposes may purchase, acquire, hold, mortgage, lease and dispose of real and personal property. Board a corporation

(7) Five members of the Board, at least one of whom shall be a member appointed to represent the public interest, constitute a quorum. Quorum

(8) The Board may employ such officers and employees as are considered necessary for carrying out the duties and functions of the Board and shall appoint an officer of the Board as Registrar. Staff

(9) The objects of the Board are, Objects

(*a*) to regulate the practice of denture therapy and the practice of supervised denture therapy;

(*b*) to establish, maintain and develop standards of knowledge and skill among denture therapists;

(*c*) to establish, maintain and develop standards of qualification and practice for the practice of denture therapy and the practice of supervised denture therapy;

(*d*) to establish, maintain and develop standards of professional ethics among licensees,

in order that the public interest may be served and protected.

Duties

(10) The Board shall,

(*a*) review the operation of this Act and the regulations and make recommendations to the Minister thereon;

(*b*) approve or set courses of study and examinations for the qualification of applicants for licences;

(*c*) perform such other duties as are assigned to it by this Act or the regulations or by any other Act.

Remuneration

(11) The members of the Board shall be paid such remuneration for their services and allowances for expenses as is fixed by the Lieutenant Governor in Council.

Practice of denture therapy

3.—(1) No person, other than a dental surgeon or a person licensed under this Act as a denture therapist, shall engage in or hold himself out as qualified or entitled to engage in the practice of denture therapy or the practice of supervised denture therapy.

Exception

(2) Subsection 1 does not apply to a student attending a course of study set or approved by the Board and acting under the personal supervision of a person licensed under this Act to engage in the practice of denture therapy for the purpose of completing qualifying studies or practical experience required under the regulations.

Proof of practice

(3) For the purpose of subsection 1, proof of the performance of one act in the practice of denture therapy or the practice of supervised denture therapy on one occasion is sufficient to establish engaging in the practice of denture therapy or the practice of supervised denture therapy, as the case may be.

Issuance of licences

4.—(1) The Registrar shall issue a licence to any applicant therefor who is qualified under this Act and the regulations

and has passed such examinations as the Board may set or approve, and the Registrar shall refer to the Registration Committee every application for a licence that he proposes to refuse or to which he considers terms, conditions or limitations should be attached.

Powers and duties of Registration Committee

(2) The Registration Committee,

(*a*) shall determine the eligibility of applicants for licences and may require an applicant to take and pass such additional examinations as the Board may set or approve and pay such fees therefor as the Registration Committee fixes or to take such additional training as the Registration Committee specifies; and

(*b*) may exempt an applicant from any licensing requirement.

Idem

(3) The Registration Committee may direct the Registrar to issue or refuse to issue licences or to issue licences subject to such terms, conditions and limitations as the Committee specifies.

Review of qualifications

(4) The Registration Committee may review the qualifications of any licensee and may impose a term, condition or limitation on his licence pending the demonstration of such standard of competence through the completion of such experience, courses of study or continuing education as the Committee specifies.

Registers of licensees

(5) The Registrar shall maintain one or more registers in which is entered every person who is licensed to engage in the practice of denture therapy or the practice of supervised denture therapy, identifying the terms, conditions and limitations attached to the licence, and shall note on the register every revocation, suspension and cancellation of a licence and such other information as the Registration Committee or Discipline Committee directs.

Licences under 1972, c. 163

(6) A valid licence issued under *The Denture Therapists Act, 1972* that is in existence immediately before this Act comes into force shall be deemed to be a licence under this Act to engage in the practice of supervised denture therapy.

Provisional licences

(7) The Registrar shall issue a provisional licence to engage in the practice of denture therapy to every holder of a valid licence under *The Denture Therapists Act, 1972* that is in existence immediately before this Act comes into force and who applies to the Registrar in accordance with

the regulations for such provisional licence within one month after this Act comes into force and every provisional licence expires six months after the date of its issuance or upon the issuance to the provisional licensee of a licence to engage in the practice of denture therapy pursuant to subsection 8, whichever first occurs.

Idem

(8) The Registrar shall issue a licence to engage in the practice of denture therapy to a person who is a provisional licensee and who has successfully completed the courses of study required or set by the Board.

Practice of supervised denture therapy

(9) No licensee whose licence is limited to the practice of supervised denture therapy shall practise intra-oral procedures of denture therapy on a patient except in the office of a dental surgeon or dental clinic and under the direct supervision of a dental surgeon.

Idem

(10) A person who is licensed to engage in the practice of denture therapy may also engage in the practice of supervised denture therapy but shall not practise intra-oral procedures associated with the practice of supervised denture therapy that are not associated with the practice of denture therapy on a patient except in the office of a dental surgeon or dental clinic and under the direct supervision of a dental surgeon.

Duty of dental surgeon

(11) Every dental surgeon who uses the services of a denture therapist shall personally supervise the work of the denture therapist on a patient and shall inform himself of all aspects of the progress of the work.

Acts outside scope of practice

(12) No licensed denture therapist shall perform any act in the practice of dentistry except within the scope of the practice of denture therapy or supervised denture therapy performed in the manner required by this Act.

Cancellation for default of fees

(13) The Registrar may cancel a licence for non-payment of any prescribed fee after giving the licensee at least two months notice of the default and intention to cancel, subject to the continuing jurisdiction of the Board in respect of any disciplinary action arising out of his professional conduct while a licensee.

Establishment of committees

5.—(1) The Board shall establish and appoint as hereinafter provided the following committees,

(*a*) Executive Committee;

(*b*) Registration Committee;

(*c*) Complaints Committee;

(*d*) Discipline Committee,

and may establish such other committees as the Board from time to time considers necessary.

(2) Where one or more vacancies occur in the membership of any committee, the members remaining in office constitute the committee so long as their number is not fewer than the prescribed quorum. Vacancies

6.—(1) The Executive Committee shall be composed of three persons who are members of the Board of whom one shall be a person appointed to represent the public interest. Executive Committee

(2) Two members of the Executive Committee constitute a quorum. Quorum

(3) The Executive Committee shall perform such functions of the Board as are delegated to it by the Board, the by-laws or this Act and, subject to ratification by the Board at its next ensuing meeting, may take action upon any other matter that requires immediate attention between meetings of the Board, other than to make, amend or revoke a regulation or by-law. Duties

7.—(1) The Registration Committee shall be composed of four members of the Board of whom one shall be a person appointed to represent the public interest. Registration Committee

(2) The Board shall name one member of the Registration Committee to be chairman. Chairman

(3) Three members of the Registration Committee constitute a quorum. Quorum

8.—(1) The Complaints Committee shall be composed of four members of the Board of whom one shall be a person appointed to represent the public interest. Complaints Committee

(2) No person who is a member of the Discipline Committee shall be a member of the Complaints Committee. Idem

(3) The Board shall name one member of the Complaints Committee to be its chairman. Chairman

(4) Three members of the Complaints Committee constitute a quorum. Quorum

Duties

9.—(1) The Complaints Committee shall consider and investigate complaints made by members of the public or members of the Board regarding the conduct or actions of any person licensed or provisionally licensed under this Act, but no action shall be taken by the Committee under subsection 2 unless,

(*a*) a written complaint has been filed with the Registrar and the person whose conduct or actions are being investigated has been notified of the complaint and given at least two weeks in which to submit in writing to the Committee any explanations or representations he may wish to make concerning the matter; and

(*b*) the Committee has examined or has made every reasonable effort to examine all records and other documents relating to the complaint.

Idem

(2) The Committee in accordance with the information it receives may direct that,

(*a*) the matter be referred in whole or in part to the Discipline Committee or to the Executive Committee for the purposes of section 11*a*; or

(*b*) the matter not be referred under clause *a*; or

(*c*) take such action as it considers appropriate in the circumstances and that is not inconsistent with this Act or the regulations or by-laws.

Decision

(3) The Committee shall give its decision in writing to the Registrar for the purposes of section 14 and, where the decision is taken under clause *b* of subsection 2, written reasons therefor.

Discipline Committee

10.—(1) The Discipline Committee shall be composed of five members of the Board, of whom two shall be persons appointed to represent the public interest.

Quorum and votes

(2) Three or more members of the Discipline Committee, of whom one shall be a person appointed to represent the public interest, constitute a quorum and all disciplinary decisions require the vote of a majority of the members present at the meeting.

Chairman

(3) The Board shall name one member of the Discipline Committee to be its chairman.

Disability of lay member

(4) Where a quorum of the Discipline Committee commences a hearing and the member thereof who represents the public

interest is unable to continue to act, the remaining members may complete the hearing notwithstanding his absence.

(5) Notwithstanding any other provision of this Act, the Board or the Executive Committee may direct the Discipline Committee to hold a hearing and determine any specified allegation of professional misconduct or incompetence on the part of a licensee.

Reference by Board or Executive Committee

11.—(1) The Discipline Committee shall,

Duties of Discipline Committee

(*a*) when so directed by the Board, Executive Committee or Complaints Committee, hear and determine allegations of professional misconduct or incompetence against any licensee;

(*b*) hear and determine matters referred to it by the Board, Registrar, Executive Committee or Complaints Committee pursuant to this Act; and

(*c*) perform such other duties as are assigned to it by the Board.

(2) In the case of hearings into allegations of professional misconduct or incompetence, the Discipline Committee shall,

Idem

(*a*) consider the allegations, hear the evidence and ascertain the facts of the case;

(*b*) determine whether upon the evidence and the facts so ascertained the allegations have been proved;

(*c*) determine whether in respect of the allegations so proved the licensee is guilty of professional misconduct or incompetence;

(*d*) determine the penalty to be imposed as hereinafter provided in cases in which it finds the licensee guilty of professional misconduct or of incompetence.

(3) A licensee may be found guilty of professional misconduct by the Committee if,

Professional misconduct

(*a*) he has been found guilty of an offence relevant to his suitability to practise, upon proof of such conviction; or

(*b*) he has been guilty in the opinion of the Discipline Committee of professional misconduct as defined in the regulations.

Incompetence

(4) The Discipline Committee may find a licensee to be incompetent if in its opinion he has displayed in his professional care of a patient a lack of knowledge, skill or judgment or disregard for the welfare of the patient of a nature or to an extent that demonstrates he is unfit to continue in practice.

Powers of Discipline Committee

(5) Where the Discipline Committee finds a licensee guilty of professional misconduct or incompetence it may by order,

(*a*) revoke the licence of the licensee;

(*b*) suspend the licence of the licensee for a stated period;

(*c*) impose such restrictions on the licence of the licensee for such a period and subject to such conditions as the Committee designates;

(*d*) reprimand the licensee, and if deemed warranted, direct that the fact of such reprimand be recorded on the register;

(*e*) direct that the imposition of a penalty be suspended or postponed for such period and upon such terms as the Committee designates,

or any combination thereof.

Costs

(6) Where the Discipline Committee is of the opinion that the commencement of the proceedings was unwarranted, the Committee may order that the Board reimburse the licensee for his costs or such portion thereof as the Discipline Committee fixes.

Stay on appeal for incompetence

(7) Where the Discipline Committee revokes, suspends or restricts a licence on the grounds of incompetence, the decision takes effect immediately notwithstanding that an appeal is taken from the decision.

Stay on appeal for professional misconduct

(8) Where the Discipline Committee revokes, suspends or restricts a licence on grounds other than for incompetence, the order shall not take effect until the time for appeal from the order has expired without an appeal being taken or, if taken, the appeal has been disposed of or abandoned.

Service of decision of Discipline Committee

(9) Where the Discipline Committee finds a licensee guilty of professional misconduct or incompetence, a copy of the decision shall be served upon the person complaining in respect of the conduct or action of the licensee.

(10) Where a proceeding is commenced before the Discipline Committee and the term of office on the Board or on the Committee of a member sitting for the hearing expires or is terminated before the proceeding is disposed of but after evidence has been heard, the member shall be deemed to remain a member of the Discipline Committee for the purpose of completing the disposition of the proceeding in the same manner as if his term of office had not expired or been terminated. Continuation on expiry of Committee membership

11*a*.—(1) In this section, Interpretation

(*a*) "board of inquiry" means a board of inquiry appointed by the Executive Committee under subsection 2;

(*b*) "incapacitated licensee" means a licensee suffering from a physical or mental condition or disorder of a nature and extent making it desirable in the interests of the public or the licensee that he no longer be permitted to practise or that his practice be restricted.

(2) Where the Registrar receives information leading him to believe that a licensee may be an incapacitated licensee he shall make such inquiry as he considers appropriate and report to the Executive Committee who may, upon notice to the licensee, appoint a board of inquiry composed of at least two licensees and one member of the Board representing the public interest who shall inquire into the matter. Reference to board of inquiry

(3) The Board of inquiry shall make such inquiries as it considers appropriate and may require the licensee to submit to physical or mental examination by such qualified person as the board designates and if the licensee refuses or fails to submit to such examination, the board may order that his licence be suspended until he complies. Examination

(4) The board of inquiry shall report its findings to the Executive Committee and deliver a copy thereof and a copy of any medical report obtained under subsection 3 to the licensee about whom the report is made and, if in the opinion of the Executive Committee, the evidence so warrants, the Executive Committee shall refer the matter to the Registration Committee to hold a hearing and may suspend the licensee's licence until the determination of the question of his capacity becomes final. Hearing by Registration Committee

Parties

(5) The Board, the person whose capacity is being investigated and any other person specified by the Registration Committee are parties to the hearing.

Medical evidence

(6) A legally qualified medical practitioner is not compellable to produce at the hearing his case histories, notes or any other records constituting medical evidence but, when required to give evidence, shall prepare a report containing the medical facts, findings, conclusions and treatment and such report shall be signed by him and served upon the other parties to the proceedings,

(*a*) where the evidence is required by the Board, at least five days before the hearing commences; and

(*b*) where the evidence is required by the person about whom the report is made, at least five days before its introduction as evidence,

and the report is receivable in evidence without proof of its making or of the signature of the legally qualified medical practitioner making the report but a party who is not tendering the report as evidence has the right to summon and cross-examine the medical practitioner on the contents of the report.

Powers of Registration Committee

(7) The Registration Committee shall, after the hearing,

(*a*) make a finding as to whether or not the licensee is an incapacitated licensee; and

(*b*) where the licensee is found to be an incapacitated licensee by order,

(i) revoke his licence,

(ii) suspend his licence for such period as the Committee considers appropriate, or

(iii) attach such terms and conditions to the licence as the Committee considers appropriate.

Appeals

(8) Any party to the proceedings before the Registration Committee under this section may appeal from its decision or order to the Supreme Court in accordance with the rules of court and the provisions of section 19 apply *mutatis mutandis* as if it were an appeal from a decision or order of the Discipline Committee.

Denture Therapists Appeal Board

12.—(1) There is hereby established a board to be known as the Denture Therapists Appeal Board.

(2) The Appeal Board shall be composed of not fewer than five and not more than seven members who shall be appointed by the Lieutenant Governor in Council and the Lieutenant Governor in Council shall designate one of the members of the Appeal Board to be chairman and one to be vice-chairman. Composition

(3) No person who is employed in the public service of Ontario or of any agency of the Crown, or who is or has been a member of the governing body of a health discipline or who is or has been registered under this Act or any other Act governing a health practice shall be a member of the Appeal Board. Disqualification

(4) The members of the first Appeal Board may be appointed for a term of one, two or three years and thereafter appointments and reappointments shall be for a term of three years. Term

(5) Every vacancy on the Appeal Board caused by the death, resignation or incapacity of a member, may be filled by the appointment by the Lieutenant Governor in Council of a person to hold office for the remainder of the term of such member. Vacancies

(6) A majority of the members of the Appeal Board constitutes a quorum. Quorum

(7) The members of the Appeal Board shall be paid such remuneration and expenses as are determined by the Lieutenant Governor in Council. Remuneration

(8) The Appeal Board may prescribe and adopt a seal. Seal

(9) Such employees as are necessary to carry out the duties of the Appeal Board under this Act shall be employed under *The Public Service Act*. Appeal Board employees R.S.O. 1970, c. 386

(10) The members of the Appeal Board shall be paid such remuneration for their services and allowances for expenses as is fixed by the Lieutenant Governor in Council. Remuneration

13.—(1) The Appeal Board shall, Duties of Appeal Board

(*a*) conduct such hearings and perform such duties as are assigned to it by or under this Act; and

(*b*) submit an annual report on its activities to the Minister and which shall include such additional information as the Minister may require and the

Minister shall submit the report to the Lieutenant Governor in Council and shall then lay the report before the Assembly if it is in session or, if not, at the next ensuing session.

Expert advice

(2) The Board may obtain expert or professional advice in connection with a hearing or complaint but the adviser shall be a person independent of,

(*a*) the parties in the case of a hearing; or

(*b*) the complainant and the member complained against in the case of a complaint,

and in the case of a hearing, the nature of the advice shall be made known to the parties in order that they may make submissions as to the advice.

Complaints

14.—(1) Where the Complaints Committee has made a disposition of a complaint respecting a licensee in accordance with the provisions of this Act, the Registrar shall send to the licensee and to the complainant by prepaid first class mail, a copy of the written decision made by the Complaints Committee including reasons therefor, if any, together with notice advising the complainant of his right of review under subsection 2.

Review of complaints

(2) A complainant or the licensee complained against who is not satisfied with the decision made by the Complaints Committee disposing of a complaint, except a decision to refer a matter to the Discipline Committee, may within twenty days of receipt of the written decision request the Appeal Board to review the decision and the Appeal Board shall require the Registrar to transmit to the Appeal Board within fifteen days of the Appeal Board's request, a record of the investigation and all such documents and things upon which the decision was based and the Appeal Board shall review the decision after giving the complainant an opportunity to state his complaint and the licensee an opportunity to state his answer thereto, either personally, by his agent or in writing.

Investigation of complaint by Appeal Board

15. Where a complaint respecting a licensee has not been disposed of by the Complaints Committee within sixty days after the complaint is made, the Appeal Board upon application therefor may require the Complaints Committee to make an investigation and, where the investigation of the complaint has not been undertaken, completed and reported on to the Appeal Board by the committee within sixty days after the Appeal Board's request, the Appeal Board shall undertake such investigation and possesses all the powers of investigation that the Complaints Committee or the Registrar has conferred upon it in this Act.

16.—(1) The Appeal Board may after review or investigation of a complaint under section 14 or 15 refer the complaint to the Complaints Committee and the Appeal Board may,

Powers of Appeal Board after review or investigation of complaint

(*a*) confirm the decision, if any, made by the Complaints Committee;

(*b*) make such recommendations to the Complaints Committee as the Appeal Board considers appropriate; or

(*c*) require the Complaints Committee to take such action or proceedings as the committee is authorized to undertake under this Act.

(2) Three members of the Appeal Board constitute a quorum for purposes of investigation or review of a complaint or for a hearing.

Appeal Board quorum

(3) The Appeal Board shall give its decision and reasons therefor in writing to the complainant and the licensee complained against.

Decision and reasons

17.—(1) Where the Registration Committee proposes to refuse to grant a licence to an applicant, or proposes to attach terms, conditions or limitations to a registration, the Registrar on behalf of the committee shall serve notice of the proposal of the committee, together with written reasons therefor, on the applicant or licensee and a copy thereof to the Appeal Board.

Notice of proposal to refuse registration

(2) Subsection 1 does not apply to a refusal to grant a licence to a person who was previously licensed and whose licence was suspended or revoked as a result of a decision of the Discipline Committee.

Exemptions

(3) A notice under subsection 1 shall inform the applicant or licensee that he is entitled to a hearing by the Appeal Board or to a review by the Appeal Board of his application and documentary evidence in support thereof without oral evidence, if he mails or delivers within fifteen days after the notice under subsection 1 is served on him, notice in writing to the Appeal Board requiring a hearing or such review by the Appeal Board, as he specifies.

Notice requiring hearing or review

(4) Where an applicant or licensee does not require a hearing or review by the Appeal Board in accordance with subsection 3, the Appeal Board shall so notify the Registration Committee and the committee may carry out the proposal stated in its notice under subsection 1.

Powers of Registration Committee where hearing or review

Findings of fact

(5) The findings of fact of the Appeal Board pursuant to a hearing or review shall be based exclusively on evidence admissible or matters that may be noticed under sections 15 and 16 of *The Statutory Powers Procedure Act, 1971*.

1971, c. 47

Procedures on hearings

(6) The provisions of subsections 2 to 5 and subsections 7 and 8 of section 18 apply *mutatis mutandis* to proceedings before the Appeal Board under this section.

Powers of Appeal Board upon hearing or review

(7) The Appeal Board shall, after the hearing or review,

(*a*) confirm the proposed decision of the Registration Committee; or

(*b*) require the Registration Committee to permit the applicant to take qualifying examinations or additional training as a condition for licensing, or both as specified by the Registration Committee; or

(*c*) require the Registration Committee to direct the Registrar to register the applicant on any appropriate register subject to such conditions as the Appeal Board considers appropriate in cases where the Appeal Board finds that the applicant meets the requirements for licensing and that the committee has exercised its powers improperly; or

(*d*) refer the matter back to the Registration Committee for further consideration and the Appeal Board may make such recommendations as it considers appropriate in the circumstances.

Parties

(8) The Registration Committee and the applicant or licensee are parties to proceedings before the Appeal Board under this section.

Appeals

(9) Any party to proceedings before the Appeal Board under this section may appeal from its decision or order to the Supreme Court in accordance with the rules of court and the provisions of section 19 apply *mutatis mutandis* as if it were an appeal from a decision or order of the Discipline Committee.

Parties to discipline proceedings

18.—(1) In proceedings before the Discipline Committee, the Board and the licensee whose conduct is being investigated in the proceedings are parties to the proceedings.

Examination of documentary evidence

(2) A licensee whose conduct is being investigated in proceedings before the Discipline Committee shall be afforded an opportunity to examine before the hearing any written or documentary evidence that will be produced or any report the contents of which shall be given in evidence at the hearing.

(3) Members of the Discipline Committee holding a hearing shall not have taken part before the hearing in any investigation of the subject-matter of the hearing other than as a member of the Board considering the referral of the matter to the Discipline Committee or at a previous hearing of the Committee, and shall not communicate directly or indirectly in relation to the subject-matter of the hearing with any person or with any party or his representative except upon notice to and opportunity for all parties to participate, but the committee may seek legal advice from an adviser independent from the parties and in such case the nature of the advice shall be made known to the parties in order that they may make submissions as to the law. Members holding hearing not to have taken part in investigation, etc.

(4) Notwithstanding anything in *The Statutory Powers Procedure Act, 1971*, hearings of the Discipline Committee shall be held *in camera*, but, if the person whose conduct is being investigated requests otherwise by a notice delivered to the Registrar before the day fixed for the hearing, the committee shall conduct the hearing in public except where, *In camera* 1971, c. 47

(*a*) matters involving public security may be disclosed; or

(*b*) the possible disclosure of intimate financial or personal matters outweighs the desirability of holding the hearing in public.

(5) The oral evidence taken before the Discipline Committee shall be recorded and, if so required, copies or a transcript thereof shall be furnished only to the parties at their own cost. Recording of evidence

(6) Notwithstanding *The Statutory Powers Procedure Act, 1971* nothing is admissible in evidence before the Discipline Committee that would be inadmissible in a court in a civil case and the findings of the Discipline Committee shall be based exclusively on evidence admitted before it. Evidence

(7) No member of the Discipline Committee shall participate in a decision of the committee pursuant to a hearing unless he was present throughout the hearing and heard the evidence and argument of the parties. Only members at hearing to participate in decision

(8) Documents and things put in evidence at a hearing of the Discipline Committee shall, upon the request of the person who produced them, be released to him by the committee within a reasonable time after the matter in issue has been finally determined. Release of documentary evidence

19.—(1) Any party to proceedings before the Discipline Committee may appeal from its decision or order to the Supreme Court in accordance with the rules of court. Appeal to court

Powers of court on appeal

(2) An appeal under this section may be made on questions of law or fact or both and the court may affirm or may rescind the decision of the committee appealed from and may exercise all powers of the committee and may direct the committee or the Board to take any action which the committee or the Board may take and as the court considers proper, and for such purposes the court may substitute its opinion for that of the committee, or the court may refer the matter back to the committee for rehearing, in whole or in part, in accordance with such directions as the court considers proper.

Restoration of licence

20.—(1) A person whose licence has been revoked or suspended for cause under this Act may apply in writing to the Registrar for the issuance of a licence or removal of the suspension, but such application shall not be made sooner than one year after the revocation or, where the suspension is for more than one year, one year after the suspension.

Reference to Discipline Committee or Registration Committee

(2) The Registrar shall refer the application to the Discipline Committee or, where the revocation or suspension was on the grounds of incapacity, to the Registration Committee, which shall hold a hearing respecting and decide upon the application, and shall report its decision and reasons to the Board and to the former licensee.

Procedures

(3) The provisions of this Act applying to proceedings of the Appeal Board on hearings and review in respect of applications for registration, except subsection 9 of section 17 apply, *mutatis mutandis*, to proceedings of the Registration Committee and Discipline Committee under this section.

Investigation of members

21.—(1) Where the Registrar believes on reasonable and probable grounds that a licensee has committed an act of professional misconduct or incompetence, the Registrar may by order appoint one or more persons to make an investigation to ascertain whether such an act has occurred, and the person appointed shall report the result of his investigation to the Registrar.

Powers of investigator

(2) For purposes relevant to the subject-matter of an investigation under this section, the person appointed to make the investigation may inquire into and examine the practice of the licensee in respect of whom the investigation is being made and may, upon production of his appointment, enter at any reasonable time the business premises of such person and examine books, records, documents and things relevant to

the subject-matter of the investigation, and for the purposes of the inquiry, the person making the investigation has the powers of a commission under Part II of *The Public Inquiries Act, 1971*, which Part applies to such inquiry as if it were an inquiry under that Act. 1971, c. 49

(3) No person shall obstruct a person appointed to make an investigation under this section or withhold from him or conceal or destroy any books, records, documents or things relevant to the subject-matter of the investigation. Obstruction of investigator

(4) Where a provincial judge is satisfied, upon an *ex parte* application by the person making an investigation under this section, that the investigation has been ordered and that such person has been appointed to make it and that there is reasonable ground for believing there are in any building, dwelling, receptacle or place any books, records, documents or things relating to the person whose affairs are being investigated and to the subject-matter of the investigation, the provincial judge may, whether or not an inspection has been made or attempted under subsection 2, issue an order authorizing the person making the investigation, together with such police officer or officers as he calls upon to assist him, to enter and search, if necessary by force, such building, dwelling, receptacle or place for such books, records, documents or things and to examine them, but every such entry and search shall be made between sunrise and sunset unless the provincial judge, by the order, authorizes the person making the investigation to make the search at night. Search warrant

(5) Any person making an investigation under this section may, upon giving a receipt therefor, remove any books, records, documents or things examined under subsection 2 or 4 relating to the person whose practice is being investigated and to the subject-matter of the investigation for the purpose of making copies of such books, records or documents, but such copying shall be carried out with reasonable dispatch and the books, records or documents in question shall be promptly thereafter returned to the person whose practice is being investigated. Removal of books, etc.

(6) Any copy made as provided in subsection 5 and certified to be a true copy by the person making the investigation is admissible in evidence in any action, proceeding or prosecution as *prima facie* proof of the original book, record or document and its contents. Admissibility of copies

(7) The Registrar shall report the results of the investigation to the Board or the Executive Committee or to such other committee as he considers appropriate. Report of Registrar

Matters confidential

22.—(1) Every person employed in the administration of this Act, including any person making an inquiry or investigation under section 21 and any member of the Board or a Committee shall preserve secrecy with respect to all matters that come to his knowledge in the course of his duties, employment, inquiry or investigation under section 21 and shall not communicate any such matters to any other person except,

(*a*) as may be required in connection with the administration of this Act and the regulations and by-laws or any proceedings under this Act or the regulations;

(*b*) to his counsel; or

(*c*) with the consent of the person to whom the information relates.

Testimony in civil suit

(2) No person to whom subsection 1 applies shall be required to give testimony in any civil suit or proceeding with regard to information obtained by him in the course of his duties, employment, inquiry or investigation except in a proceeding under this Act or the regulations or by-laws.

Regulations

23.—(1) Subject to the approval of the Lieutenant Governor in Council and with prior review by the Minister, the Board may make regulations,

(*a*) respecting any matter ancillary to the provisions of this Act with regard to the issuing, suspension and revocation of licences;

(*b*) prescribing classes of licences and governing the requirements and qualifications for the issuing of licences or any class thereof and prescribing the terms and conditions thereof;

(*c*) providing for the maintenance and inspection of registers of persons permitted to practise;

(*d*) governing standards of practice for the profession;

(*e*) authorizing persons other than licensees to perform specified acts in the practice of denture therapy under the supervision or direction of a licensee;

(*f*) prohibiting the practice of denture therapy where there is a conflict of interest and defining the activities that shall constitute a conflct of interest for the purpose;

(*g*) defining professional misconduct for the purposes of this Act;

(*h*) providing for a program of continuing education of licensees to maintain their standard of competence and requiring licensees to participate in such continuing education;

(*i*) providing for the establishment and operation of an appraisal committee for the purposes of examining and assessing the standard of practice of licensees and reporting thereon to the Board and examining and assessing the standards of practice, qualifications and continuing education of members and making recommendations to the Registration Committee thereon;

(*j*) regulating, controlling and prohibiting the use of terms, titles or designations by licensees or groups or associations of licensees in respect of their practices;

(*k*) respecting the reporting and publication of decisions in disciplinary matters;

(*l*) providing for the compilation of statistical information on the supply, distribution and professional activities of licensees and requiring licensees to provide the information necessary to compile such statistics;

(*m*) respecting the duties and authority of the Registrar;

(*n*) requiring and providing for the inspection and examination of the office, records and equipment of licensees in connection with their practice;

(*o*) prescribing the records that shall be kept respecting patients;

(*p*) requiring the payment of annual fees by licensees and fees for licensing, examinations and continuing education, including penalties for late payment, and fees for anything the Registrar is required or authorized to do, and prescribing the amounts thereof;

(*q*) prescribing forms and providing for their use;

(*r*) providing for the exemption of any licensee from any provision of the regulations under such special circumstances in the public interest as the Board considers advisable.

Regulations by Lieutenant Governor in Council

(2) Where the Minister requests in writing that the Board make, amend or revoke a regulation under subsection 1 and the Board has failed to do so within sixty days after the request, the Lieutenant Governor in Council may make the regulation, amendment or revocation specified in the request.

By-laws

24.—(1) The Board may pass by-laws relating to the administrative and domestic affairs of the Board not inconsistent with this Act and the regulations and without limiting the generality of the foregoing,

(*a*) prescribing the seal of the Board;

(*b*) providing for the execution of documents by the Board;

(*c*) respecting banking and finance;

(*d*) fixing the financial year of the Board and providing for the audit of the accounts and transactions of the Board;

(*e*) respecting the calling, holding and conducting of meetings of the Board and the duties of members of the Board;

(*f*) respecting the calling, holding and conducting of meetings of licensees;

(*g*) providing for the appointment, composition, powers and duties of such additional or special committees as may be required;

(*h*) delegating to the Executive Committee such powers and duties of the Board as are set out in the by-law, other than the power to make, amend or revoke regulations and by-laws;

(*i*) providing for a code of ethics;

(*j*) prescribing forms and providing for their use;

(*k*) providing procedures for the making, amending and revoking of the by-laws;

(*l*) respecting management of the property of the Board;

(*m*) respecting the application of the funds of the Board and the investment and reinvestment of any of its funds not immediately required, and for the safekeeping of its securities;

(*n*) providing for the entering into arrangements by the Board for licensees respecting indemnity for professional liability and respecting the payment and remittance of premiums in connection therewith and prescribing levies to be paid by licensees and exempting licensees or any class thereof from all or part of any such levy;

(*o*) respecting membership of the Board in a national organization with similar functions, the payment of an annual assessment and provision for representatives at meetings;

(*p*) providing for the appointment of inspectors for the purposes of this Act;

(*q*) respecting all of the things that are considered necessary for the efficient conduct of the affairs of the Board.

Distribution of by-laws

(2) A copy of the by-laws made under subsection 1 and amendments thereto,

(*a*) shall be forwarded to the Minister;

(*b*) shall be forwarded to each licensee; and

(*c*) shall be available for public inspection in the office of the Board.

Restraining orders

25.—(1) Where it appears to the Board that any person does not comply with any provision of this Act or the regulations, notwithstanding the imposition of any penalty in respect of such non-compliance and in addition to any other rights it may have, the Board may apply to a judge of the High Court for an order directing such person to comply with such provision, and upon the application the judge may make such order or such other order as the judge thinks fit.

Appeal

(2) An appeal lies to the Supreme Court from an order made under subsection 1.

Penalties

26.—(1) Every person who is in contravention of section 3 is guilty of an offence and on summary conviction is liable for the first offence to a fine of not more than $2,000 and for each subsequent offence to a fine of not more than $2,000 or to imprisonment for a term of not more than six months, or to both.

Idem

(2) Every person who, not being a licensee, uses an occupational designation prescribed or prohibited by the regulations to be used by licensees or a like designation is guilty of an offence and on summary conviction is liable for the first offence to a fine of not more than $1,000 and for each subsequent offence to a fine of not more than $2,000.

Idem

(3) Any person who obstructs a person appointed to make an investigation under section 21 in the course of his duties is guilty of an offence and on summary conviction is liable to a fine not exceeding $2,000.

Service of notice

27.—(1) Except where otherwise provided, any notice or document required by this Act to be served may be served personally or by prepaid first class mail addressed to the person to whom notice is to be given at his last known address and, where notice is served by mail, the service shall be deemed to have been made on the fifth day after the day of mailing unless the person to whom notice is given establishes that he, acting in good faith, through absence, accident, illness or other cause beyond his control, did not receive the notice, or did not receive the notice until a later date.

Administering oaths

(2) Every member of the Appeal Board and of the Discipline Committee has power to administer oaths and affirmations for the purposes of any of its proceedings.

Registrar's certificate as evidence

28. Any statement containing information from the records required to be kept by the Registrar under this Act, purporting to be certified by the Registrar under the seal of the Board is admissible in evidence in all courts as *prima facie* proof of the facts stated therein without proof of the appointment or signature of the Registrar and without proof of the seal.

Immunity of Appeal Board and committees

29. No action or other proceeding for damages shall be instituted against the Appeal Board, the Board, a committee of the Board or any member of the Appeal Board, the Board or committee, or any officers, employees, agents or appointees of the Appeal Board or the Board for any act done in good faith in the performance or intended performance of any duty or in the exercise or the intended exercise of any power under this Act, a regulation or a by-law, or for any neglect or default in the performance or exercise in good faith of such duty or power.

Limitation for malpractice actions

30. No licensee is liable to any action arising out of negligence or malpractice in respect of professional services requested or rendered unless such action is commenced

within one year from the date when the person commencing the action knew or ought to have known the fact or facts upon which he alleges negligence or malpractice.

31.—(1) Any person who makes or causes to be made any wilful falsification in any matter relating to a register or issues a false licence, certificate or document with respect to registration is guilty of an offence and on summary conviction is liable to a fine of not more than $5,000. Falsification of certificates

(2) Any person who wilfully procures or attempts to procure himself to be licensed or registered under this Act by knowingly making any false representation or declaration or by making a fraudulent representation or declaration, either orally or in writing, is guilty of an offence and on summary conviction is liable to a fine of not more than $5,000 and every person knowingly aiding and assisting him therein is guilty of an offence and on summary conviction is liable to a fine of not more than $5,000. Offences for false representation

32. Where licensing under this Act is required to permit the lawful doing of any act or thing, if in any prosecution it is proven that the accused has done such act or thing, the burden of proving that he was so licensed under this Act rests upon the accused. Onus of proof respecting licensing

33. *The Denture Therapists Act, 1972*, being chapter 163, is repealed. Repeal

34. This Act comes into force on a day to be named by proclamation of the Lieutenant Governor. Commencement

35. This Act may be cited as *The Denture Therapists Act, 1974*. Short title

The Denture Therapists Act, 1974

1st Reading

May 16th, 1974

2nd Reading

June 14th, 1974

3rd Reading

THE HON. F. S. MILLER
Minister of Health

(*Reprinted as amended by the Committee of the Whole House*)

BILL 70

4TH SESSION, 29TH LEGISLATURE, ONTARIO
23 ELIZABETH II, 1974

The Denture Therapists Act, 1974

THE HON. F. S. MILLER
Minister of Health

TORONTO
PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO

BILL 70 **1974**

The Denture Therapists Act, 1974

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. In this Act, Interpretation

(*a*) "Appeal Board" means the Denture Therapists Appeal Board established under section 12;

(*b*) "Board" means the Governing Board of Denture Therapists established under section 2;

(*c*) "Complaints Committee" means the Complaints Committee of the Board established under this Act;

(*d*) "dental surgeon" means a member of The Royal College of Dental Surgeons of Ontario;

(*e*) "denture therapist" means a person licensed under this Act to engage in the practice of denture therapy or the practice of supervised denture therapy;

(*f*) "Discipline Committee" means the Discipline Committee of the Board established under this Act;

(*g*) "Executive Committee" means the Executive Committee of the Board established under this Act;

(*h*) "incompetence" means the display of a lack of knowledge, skill or judgment in the professional care of a patient or disregard for the welfare of a patient of a nature or to an extent that demonstrates that the denture therapist is unfit to continue in the practice of denture therapy or the practice of supervised denture therapy, as the case may be;

(*i*) "licence" means a licence to engage in the practice of denture therapy or the practice of supervised denture therapy as may be specified in the licence, and includes a provisional licence to engage in the practice of denture therapy;

(*j*) "licensee" means a person who is licensed under this Act to engage in the practice of denture therapy or the practice of supervised denture therapy and includes a person who is provisionally licensed to engage in the practice of denture therapy;

(*k*) "Minister" means the Minister of Health;

(*l*) "practice of denture therapy" means,

(i) the taking of impressions or bite registrations for the purpose of, or with a view to, the making, producing, reproducing, constructing, furnishing, supplying, altering or repairing of any complete upper or complete lower prosthetic denture, or both, to be fitted to an edentulous arch,

(ii) the fitting of any complete upper or complete lower prosthetic denture or both, to an edentulous arch, and

(iii) the making, producing, reproducing, constructing, furnishing, supplying, altering and repairing complete upper or complete lower prosthetic dentures or both in respect of which a service is performed under subclause i or ii;

(*m*) "practice of supervised denture therapy" means,

(i) the taking of impressions or bite registrations for the purpose of, or with a view to, the making, producing, reproducing, constructing, furnishing, supplying, altering or repairing of any removable prosthetic denture,

(ii) the fitting of any removable prosthetic denture, and

(iii) the making, producing, reproducing, constructing, furnishing, supplying, altering and repairing removable prosthetic dentures in respect of which a service is performed under subclause i or ii;

(*n*) "professional misconduct" means professional misconduct as defined in the regulations;

(*o*) "Registrar" means the officer of the Board appointed as Registrar under subsection 8 of section 2;

(*p*) "Registration Committee" means the Registration Committee of the Board established under this Act;

(*q*) "regulations" means the regulations made under this Act.

2.—(1) There shall be a board to be known as the Governing Board of Denture Therapists composed of members appointed by the Lieutenant Governor in Council. Governing Board of Denture Therapists

(2) The Board shall be composed of three members representing the public interest and six denture therapists. Composition of Board

(3) The Lieutenant Governor in Council shall designate one of the members of the Board to be the chairman. Chairman

(4) Every member of the Board shall hold office for a period of not more than three years and is eligible for reappointment so long as he does not serve continuously for more than six years. Term of office

(5) Every vacancy on the Board caused by the death, resignation or incapacity of a member may be filled by the appointment by the Lieutenant Governor in Council of a person to hold office for the remainder of the term of such member. Vacancies

(6) The Board is a corporation and for its purposes may purchase, acquire, hold, mortgage, lease and dispose of real and personal property. Board a corporation

(7) Five members of the Board, at least one of whom shall be a member appointed to represent the public interest, constitute a quorum. Quorum

(8) The Board may employ such officers and employees as are considered necessary for carrying out the duties and functions of the Board and shall appoint an officer of the Board as Registrar. Staff

(9) The objects of the Board are, Objects

(*a*) to regulate the practice of denture therapy and the practice of supervised denture therapy;

(*b*) to establish, maintain and develop standards of knowledge and skill among denture therapists;

(*c*) to establish, maintain and develop standards of qualification and practice for the practice of denture therapy and the practice of supervised denture therapy;

(*d*) to establish, maintain and develop standards of professional ethics among licensees,

in order that the public interest may be served and protected.

Duties

(10) The Board shall,

(*a*) review the operation of this Act and the regulations and make recommendations to the Minister thereon;

(*b*) approve or set courses of study and examinations for the qualification of applicants for licences;

(*c*) perform such other duties as are assigned to it by this Act or the regulations or by any other Act.

Remuneration

(11) The members of the Board shall be paid such remuneration for their services and allowances for expenses as is fixed by the Lieutenant Governor in Council.

Practice of denture therapy

3.—(1) No person, other than a dental surgeon or a person licensed under this Act as a denture therapist, shall engage in or hold himself out as qualified or entitled to engage in the practice of denture therapy or the practice of supervised denture therapy.

Exception

(2) Subsection 1 does not apply to a student attending a course of study set or approved by the Board and acting under the personal supervision of a person licensed under this Act to engage in the practice of denture therapy for the purpose of completing qualifying studies or practical experience required under the regulations.

Proof of practice

(3) For the purpose of subsection 1, proof of the performance of one act in the practice of denture therapy or the practice of supervised denture therapy on one occasion is sufficient to establish engaging in the practice of denture therapy or the practice of supervised denture therapy, as the case may be.

Issuance of licences

4.—(1) The Registrar shall issue a licence to any applicant therefor who is qualified under this Act and the regulations

and has passed such examinations as the Board may set or approve, and the Registrar shall refer to the Registration Committee every application for a licence that he proposes to refuse or to which he considers terms, conditions or limitations should be attached.

Powers and duties of Registration Committee

(2) The Registration Committee,

(*a*) shall determine the eligibility of applicants for licences and may require an applicant to take and pass such additional examinations as the Board may set or approve and pay such fees therefor as the Registration Committee fixes or to take such additional training as the Registration Committee specifies; and

(*b*) may exempt an applicant from any licensing requirement.

Idem

(3) The Registration Committee may direct the Registrar to issue or refuse to issue licences or to issue licences subject to such terms, conditions and limitations as the Committee specifies.

Review of qualifications

(4) The Registration Committee may review the qualifications of any licensee and may impose a term, condition or limitation on his licence pending the demonstration of such standard of competence through the completion of such experience, courses of study or continuing education as the Committee specifies.

Registers of licensees

(5) The Registrar shall maintain one or more registers in which is entered every person who is licensed to engage in the practice of denture therapy or the practice of supervised denture therapy, identifying the terms, conditions and limitations attached to the licence, and shall note on the register every revocation, suspension and cancellation of a licence and such other information as the Registration Committee or Discipline Committee directs.

Licences under 1972, c. 163

(6) A valid licence issued under *The Denture Therapists Act, 1972* that is in existence immediately before this Act comes into force shall be deemed to be a licence under this Act to engage in the practice of supervised denture therapy.

Provisional licences

(7) The Registrar shall issue a provisional licence to engage in the practice of denture therapy to every holder of a valid licence under *The Denture Therapists Act, 1972* that is in existence immediately before this Act comes into force and who applies to the Registrar in accordance with

the regulations for such provisional licence within one month after this Act comes into force and every provisional licence expires six months after the date of its issuance or upon the issuance to the provisional licensee of a licence to engage in the practice of denture therapy pursuant to subsection 8, whichever first occurs.

Idem

(8) The Registrar shall issue a licence to engage in the practice of denture therapy to a person who is a provisional licensee and who has successfully completed the courses of study required or set by the Board.

Practice of supervised denture therapy

(9) No licensee whose licence is limited to the practice of supervised denture therapy shall practise intra-oral procedures of denture therapy on a patient except in the office of a dental surgeon or dental clinic and under the direct supervision of a dental surgeon.

Idem

(10) A person who is licensed to engage in the practice of denture therapy may also engage in the practice of supervised denture therapy but shall not practise intra-oral procedures associated with the practice of supervised denture therapy that are not associated with the practice of denture therapy on a patient except in the office of a dental surgeon or dental clinic and under the direct supervision of a dental surgeon.

Duty of dental surgeon

(11) Every dental surgeon who uses the services of a denture therapist shall personally supervise the work of the denture therapist on a patient and shall inform himself of all aspects of the progress of the work.

Acts outside scope of practice

(12) No licensed denture therapist shall perform any act in the practice of dentistry except within the scope of the practice of denture therapy or supervised denture therapy performed in the manner required by this Act.

Cancellation for default of fees

(13) The Registrar may cancel a licence for non-payment of any prescribed fee after giving the licensee at least two months notice of the default and intention to cancel, subject to the continuing jurisdiction of the Board in respect of any disciplinary action arising out of his professional conduct while a licensee.

Establishment of committees

5.—(1) The Board shall establish and appoint as hereinafter provided the following committees,

(*a*) Executive Committee;

(*b*) Registration Committee;

(*c*) Complaints Committee;

(*d*) Discipline Committee,

and may establish such other committees as the Board from time to time considers necessary.

(2) Where one or more vacancies occur in the membership of any committee, the members remaining in office constitute the committee so long as their number is not fewer than the prescribed quorum. Vacancies

6.—(1) The Executive Committee shall be composed of three persons who are members of the Board of whom one shall be a person appointed to represent the public interest. Executive Committee

(2) Two members of the Executive Committee constitute a quorum. Quorum

(3) The Executive Committee shall perform such functions of the Board as are delegated to it by the Board, the by-laws or this Act and, subject to ratification by the Board at its next ensuing meeting, may take action upon any other matter that requires immediate attention between meetings of the Board, other than to make, amend or revoke a regulation or by-law. Duties

7.—(1) The Registration Committee shall be composed of four members of the Board of whom one shall be a person appointed to represent the public interest. Registration Committee

(2) The Board shall name one member of the Registration Committee to be chairman. Chairman

(3) Three members of the Registration Committee constitute a quorum. Quorum

8.—(1) The Complaints Committee shall be composed of four members of the Board of whom one shall be a person appointed to represent the public interest. Complaints Committee

(2) No person who is a member of the Discipline Committee shall be a member of the Complaints Committee. Idem

(3) The Board shall name one member of the Complaints Committee to be its chairman. Chairman

(4) Three members of the Complaints Committee constitute a quorum. Quorum

Duties

9.—(1) The Complaints Committee shall consider and investigate complaints made by members of the public or members of the Board regarding the conduct or actions of any person licensed or provisionally licensed under this Act, but no action shall be taken by the Committee under subsection 2 unless,

(*a*) a written complaint has been filed with the Registrar and the person whose conduct or actions are being investigated has been notified of the complaint and given at least two weeks in which to submit in writing to the Committee any explanations or representations he may wish to make concerning the matter; and

(*b*) the Committee has examined or has made every reasonable effort to examine all records and other documents relating to the complaint.

Idem

(2) The Committee in accordance with the information it receives may direct that,

(*a*) the matter be referred in whole or in part to the Discipline Committee or to the Executive Committee for the purposes of section 11*a*; or

(*b*) the matter not be referred under clause *a*; or

(*c*) take such action as it considers appropriate in the circumstances and that is not inconsistent with this Act or the regulations or by-laws.

Decision

(3) The Committee shall give its decision in writing to the Registrar for the purposes of section 14 and, where the decision is taken under clause *b* of subsection 2, written reasons therefor.

Discipline Committee

10.—(1) The Discipline Committee shall be composed of five members of the Board, of whom two shall be persons appointed to represent the public interest.

Quorum and votes

(2) Three or more members of the Discipline Committee, of whom one shall be a person appointed to represent the public interest, constitute a quorum and all disciplinary decisions require the vote of a majority of the members present at the meeting.

Chairman

(3) The Board shall name one member of the Discipline Committee to be its chairman.

Disability of lay member

(4) Where a quorum of the Discipline Committee commences a hearing and the member thereof who represents the public

interest is unable to continue to act, the remaining members may complete the hearing notwithstanding his absence.

(5) Notwithstanding any other provision of this Act, the Board or the Executive Committee may direct the Discipline Committee to hold a hearing and determine any specified allegation of professional misconduct or incompetence on the part of a licensee. Reference by Board or Executive Committee

11.—(1) The Discipline Committee shall, Duties of Discipline Committee

(*a*) when so directed by the Board, Executive Committee or Complaints Committee, hear and determine allegations of professional misconduct or incompetence against any licensee;

(*b*) hear and determine matters referred to it by the Board, Registrar, Executive Committee or Complaints Committee pursuant to this Act; and

(*c*) perform such other duties as are assigned to it by the Board.

(2) In the case of hearings into allegations of professional misconduct or incompetence, the Discipline Committee shall, Idem

(*a*) consider the allegations, hear the evidence and ascertain the facts of the case;

(*b*) determine whether upon the evidence and the facts so ascertained the allegations have been proved;

(*c*) determine whether in respect of the allegations so proved the licensee is guilty of professional misconduct or incompetence;

(*d*) determine the penalty to be imposed as hereinafter provided in cases in which it finds the licensee guilty of professional misconduct or of incompetence.

(3) A licensee may be found guilty of professional misconduct by the Committee if, Professional misconduct

(*a*) he has been found guilty of an offence relevant to his suitability to practise, upon proof of such conviction; or

(*b*) he has been guilty in the opinion of the Discipline Committee of professional misconduct as defined in the regulations.

Incompetence

(4) The Discipline Committee may find a licensee to be incompetent if in its opinion he has displayed in his professional care of a patient a lack of knowledge, skill or judgment or disregard for the welfare of the patient of a nature or to an extent that demonstrates he is unfit to continue in practice.

Powers of Discipline Committee

(5) Where the Discipline Committee finds a licensee guilty of professional misconduct or incompetence it may by order,

(*a*) revoke the licence of the licensee;

(*b*) suspend the licence of the licensee for a stated period;

(*c*) impose such restrictions on the licence of the licensee for such a period and subject to such conditions as the Committee designates;

(*d*) reprimand the licensee, and if deemed warranted, direct that the fact of such reprimand be recorded on the register;

(*e*) direct that the imposition of a penalty be suspended or postponed for such period and upon such terms as the Committee designates,

or any combination thereof.

Costs

(6) Where the Discipline Committee is of the opinion that the commencement of the proceedings was unwarranted, the Committee may order that the Board reimburse the licensee for his costs or such portion thereof as the Discipline Committee fixes.

Stay on appeal for incompetence

(7) Where the Discipline Committee revokes, suspends or restricts a licence on the grounds of incompetence, the decision takes effect immediately notwithstanding that an appeal is taken from the decision.

Stay on appeal for professional misconduct

(8) Where the Discipline Committee revokes, suspends or restricts a licence on grounds other than for incompetence, the order shall not take effect until the time for appeal from the order has expired without an appeal being taken or, if taken, the appeal has been disposed of or abandoned.

Service of decision of Discipline Committee

(9) Where the Discipline Committee finds a licensee guilty of professional misconduct or incompetence, a copy of the decision shall be served upon the person complaining in respect of the conduct or action of the licensee.

(10) Where a proceeding is commenced before the Discipline Committee and the term of office on the Board or on the Committee of a member sitting for the hearing expires or is terminated before the proceeding is disposed of but after evidence has been heard, the member shall be deemed to remain a member of the Discipline Committee for the purpose of completing the disposition of the proceeding in the same manner as if his term of office had not expired or been terminated. Continuation on expiry of Committee membership

11*a*.—(1) In this section, Interpretation

(*a*) "board of inquiry" means a board of inquiry appointed by the Executive Committee under subsection 2;

(*b*) "incapacitated licensee" means a licensee suffering from a physical or mental condition or disorder of a nature and extent making it desirable in the interests of the public or the licensee that he no longer be permitted to practise or that his practice be restricted.

(2) Where the Registrar receives information leading him to believe that a licensee may be an incapacitated licensee he shall make such inquiry as he considers appropriate and report to the Executive Committee who may, upon notice to the licensee, appoint a board of inquiry composed of at least two licensees and one member of the Board representing the public interest who shall inquire into the matter. Reference to board of inquiry

(3) The Board of inquiry shall make such inquiries as it considers appropriate and may require the licensee to submit to physical or mental examination by such qualified person as the board designates and if the licensee refuses or fails to submit to such examination, the board may order that his licence be suspended until he complies. Examination

(4) The board of inquiry shall report its findings to the Executive Committee and deliver a copy thereof and a copy of any medical report obtained under subsection 3 to the licensee about whom the report is made and, if in the opinion of the Executive Committee, the evidence so warrants, the Executive Committee shall refer the matter to the Registration Committee to hold a hearing and may suspend the licensee's licence until the determination of the question of his capacity becomes final. Hearing by Registration Committee

Parties

(5) The Board, the person whose capacity is being investigated and any other person specified by the Registration Committee are parties to the hearing.

Medical evidence

(6) A legally qualified medical practitioner is not compellable to produce at the hearing his case histories, notes or any other records constituting medical evidence but, when required to give evidence, shall prepare a report containing the medical facts, findings, conclusions and treatment and such report shall be signed by him and served upon the other parties to the proceedings,

(*a*) where the evidence is required by the Board, at least five days before the hearing commences; and

(*b*) where the evidence is required by the person about whom the report is made, at least five days before its introduction as evidence,

and the report is receivable in evidence without proof of its making or of the signature of the legally qualified medical practitioner making the report but a party who is not tendering the report as evidence has the right to summon and cross-examine the medical practitioner on the contents of the report.

Powers of Registration Committee

(7) The Registration Committee shall, after the hearing,

(*a*) make a finding as to whether or not the licensee is an incapacitated licensee; and

(*b*) where the licensee is found to be an incapacitated licensee by order,

(i) revoke his licence,

(ii) suspend his licence for such period as the Committee considers appropriate, or

(iii) attach such terms and conditions to the licence as the Committee considers appropriate.

Appeals

(8) Any party to the proceedings before the Registration Committee under this section may appeal from its decision or order to the Supreme Court in accordance with the rules of court and the provisions of section 19 apply *mutatis mutandis* as if it were an appeal from a decision or order of the Discipline Committee.

Denture Therapists Appeal Board

12.—(1) There is hereby established a board to be known as the Denture Therapists Appeal Board.

(2) The Appeal Board shall be composed of not fewer than five and not more than seven members who shall be appointed by the Lieutenant Governor in Council and the Lieutenant Governor in Council shall designate one of the members of the Appeal Board to be chairman and one to be vice-chairman. Composition

(3) No person who is employed in the public service of Ontario or of any agency of the Crown, or who is or has been a member of the governing body of a health discipline or who is or has been registered under this Act or any other Act governing a health practice shall be a member of the Appeal Board. Disqualification

(4) The members of the first Appeal Board may be appointed for a term of one, two or three years and thereafter appointments and reappointments shall be for a term of three years. Term

(5) Every vacancy on the Appeal Board caused by the death, resignation or incapacity of a member, may be filled by the appointment by the Lieutenant Governor in Council of a person to hold office for the remainder of the term of such member. Vacancies

(6) A majority of the members of the Appeal Board constitutes a quorum. Quorum

(7) The members of the Appeal Board shall be paid such remuneration and expenses as are determined by the Lieutenant Governor in Council. Remuneration

(8) The Appeal Board may prescribe and adopt a seal. Seal

(9) Such employees as are necessary to carry out the duties of the Appeal Board under this Act shall be employed under *The Public Service Act*. Appeal Board employees R.S.O. 1970, c. 386

(10) The members of the Appeal Board shall be paid such remuneration for their services and allowances for expenses as is fixed by the Lieutenant Governor in Council. Remuneration

13.—(1) The Appeal Board shall, Duties of Appeal Board

(*a*) conduct such hearings and perform such duties as are assigned to it by or under this Act; and

(*b*) submit an annual report on its activities to the Minister and which shall include such additional information as the Minister may require and the

Minister shall submit the report to the Lieutenant Governor in Council and shall then lay the report before the Assembly if it is in session or, if not, at the next ensuing session.

Expert advice

(2) The Board may obtain expert or professional advice in connection with a hearing or complaint but the adviser shall be a person independent of,

(*a*) the parties in the case of a hearing; or

(*b*) the complainant and the member complained against in the case of a complaint,

and in the case of a hearing, the nature of the advice shall be made known to the parties in order that they may make submissions as to the advice.

Complaints

14.—(1) Where the Complaints Committee has made a disposition of a complaint respecting a licensee in accordance with the provisions of this Act, the Registrar shall send to the licensee and to the complainant by prepaid first class mail, a copy of the written decision made by the Complaints Committee including reasons therefor, if any, together with notice advising the complainant of his right of review under subsection 2.

Review of complaints

(2) A complainant or the licensee complained against who is not satisfied with the decision made by the Complaints Committee disposing of a complaint, except a decision to refer a matter to the Discipline Committee, may within twenty days of receipt of the written decision request the Appeal Board to review the decision and the Appeal Board shall require the Registrar to transmit to the Appeal Board within fifteen days of the Appeal Board's request, a record of the investigation and all such documents and things upon which the decision was based and the Appeal Board shall review the decision after giving the complainant an opportunity to state his complaint and the licensee an opportunity to state his answer thereto, either personally, by his agent or in writing.

Investigation of complaint by Appeal Board

15. Where a complaint respecting a licensee has not been disposed of by the Complaints Committee within sixty days after the complaint is made, the Appeal Board upon application therefor may require the Complaints Committee to make an investigation and, where the investigation of the complaint has not been undertaken, completed and reported on to the Appeal Board by the committee within sixty days after the Appeal Board's request, the Appeal Board shall undertake such investigation and possesses all the powers of investigation that the Complaints Committee or the Registrar has conferred upon it in this Act.

16.—(1) The Appeal Board may after review or investigation of a complaint under section 14 or 15 refer the complaint to the Complaints Committee and the Appeal Board may, ... Powers of Appeal Board after review or investigation of complaint

(*a*) confirm the decision, if any, made by the Complaints Committee;

(*b*) make such recommendations to the Complaints Committee as the Appeal Board considers appropriate; or

(*c*) require the Complaints Committee to take such action or proceedings as the committee is authorized to undertake under this Act.

(2) Three members of the Appeal Board constitute a quorum for purposes of investigation or review of a complaint or for a hearing. Appeal Board quorum

(3) The Appeal Board shall give its decision and reasons therefor in writing to the complainant and the licensee complained against. Decision and reasons

17.—(1) Where the Registration Committee proposes to refuse to grant a licence to an applicant, or proposes to attach terms, conditions or limitations to a registration, the Registrar on behalf of the committee shall serve notice of the proposal of the committee, together with written reasons therefor, on the applicant or licensee and a copy thereof to the Appeal Board. Notice of proposal to refuse registration

(2) Subsection 1 does not apply to a refusal to grant a licence to a person who was previously licensed and whose licence was suspended or revoked as a result of a decision of the Discipline Committee. Exemptions

(3) A notice under subsection 1 shall inform the applicant or licensee that he is entitled to a hearing by the Appeal Board or to a review by the Appeal Board of his application and documentary evidence in support thereof without oral evidence, if he mails or delivers within fifteen days after the notice under subsection 1 is served on him, notice in writing to the Appeal Board requiring a hearing or such review by the Appeal Board, as he specifies. Notice requiring hearing or review

(4) Where an applicant or licensee does not require a hearing or review by the Appeal Board in accordance with subsection 3, the Appeal Board shall so notify the Registration Committee and the committee may carry out the proposal stated in its notice under subsection 1. Powers of Registration Committee where hearing or review

Findings of fact

(5) The findings of fact of the Appeal Board pursuant to a hearing or review shall be based exclusively on evidence admissible or matters that may be noticed under sections 15 and 16 of *The Statutory Powers Procedure Act, 1971*.

1971, c. 47

Procedures on hearings

(6) The provisions of subsections 2 to 5 and subsections 7 and 8 of section 18 apply *mutatis mutandis* to proceedings before the Appeal Board under this section.

Powers of Appeal Board upon hearing or review

(7) The Appeal Board shall, after the hearing or review,

(*a*) confirm the proposed decision of the Registration Committee; or

(*b*) require the Registration Committee to permit the applicant to take qualifying examinations or additional training as a condition for licensing, or both as specified by the Registration Committee; or

(*c*) require the Registration Committee to direct the Registrar to register the applicant on any appropriate register subject to such conditions as the Appeal Board considers appropriate in cases where the Appeal Board finds that the applicant meets the requirements for licensing and that the committee has exercised its powers improperly; or

(*d*) refer the matter back to the Registration Committee for further consideration and the Appeal Board may make such recommendations as it considers appropriate in the circumstances.

Parties

(8) The Registration Committee and the applicant or licensee are parties to proceedings before the Appeal Board under this section.

Appeals

(9) Any party to proceedings before the Appeal Board under this section may appeal from its decision or order to the Supreme Court in accordance with the rules of court and the provisions of section 19 apply *mutatis mutandis* as if it were an appeal from a decision or order of the Discipline Committee.

Parties to discipline proceedings

18.—(1) In proceedings before the Discipline Committee, the Board and the licensee whose conduct is being investigated in the proceedings are parties to the proceedings.

Examination of documentary evidence

(2) A licensee whose conduct is being investigated in proceedings before the Discipline Committee shall be afforded an opportunity to examine before the hearing any written or documentary evidence that will be produced or any report the contents of which shall be given in evidence at the hearing.

(3) Members of the Discipline Committee holding a hearing shall not have taken part before the hearing in any investigation of the subject-matter of the hearing other than as a member of the Board considering the referral of the matter to the Discipline Committee or at a previous hearing of the Committee, and shall not communicate directly or indirectly in relation to the subject-matter of the hearing with any person or with any party or his representative except upon notice to and opportunity for all parties to participate, but the committee may seek legal advice from an adviser independent from the parties and in such case the nature of the advice shall be made known to the parties in order that they may make submissions as to the law. Members holding hearing not to have taken part in investigation, etc.

(4) Notwithstanding anything in *The Statutory Powers Procedure Act, 1971*, hearings of the Discipline Committee shall be held *in camera*, but, if the person whose conduct is being investigated requests otherwise by a notice delivered to the Registrar before the day fixed for the hearing, the committee shall conduct the hearing in public except where, *In camera* 1971, c. 47

(*a*) matters involving public security may be disclosed; or

(*b*) the possible disclosure of intimate financial or personal matters outweighs the desirability of holding the hearing in public.

(5) The oral evidence taken before the Discipline Committee shall be recorded and, if so required, copies or a transcript thereof shall be furnished only to the parties at their own cost. Recording of evidence

(6) Notwithstanding *The Statutory Powers Procedure Act, 1971* nothing is admissible in evidence before the Discipline Committee that would be inadmissible in a court in a civil case and the findings of the Discipline Committee shall be based exclusively on evidence admitted before it. Evidence

(7) No member of the Discipline Committee shall participate in a decision of the committee pursuant to a hearing unless he was present throughout the hearing and heard the evidence and argument of the parties. Only members at hearing to participate in decision

(8) Documents and things put in evidence at a hearing of the Discipline Committee shall, upon the request of the person who produced them, be released to him by the committee within a reasonable time after the matter in issue has been finally determined. Release of documentary evidence

19.—(1) Any party to proceedings before the Discipline Committee may appeal from its decision or order to the Supreme Court in accordance with the rules of court. Appeal to court

Powers of court on appeal

(2) An appeal under this section may be made on questions of law or fact or both and the court may affirm or may rescind the decision of the committee appealed from and may exercise all powers of the committee and may direct the committee or the Board to take any action which the committee or the Board may take and as the court considers proper, and for such purposes the court may substitute its opinion for that of the committee, or the court may refer the matter back to the committee for rehearing, in whole or in part, in accordance with such directions as the court considers proper.

Restoration of licence

20.—(1) A person whose licence has been revoked or suspended for cause under this Act may apply in writing to the Registrar for the issuance of a licence or removal of the suspension, but such application shall not be made sooner than one year after the revocation or, where the suspension is for more than one year, one year after the suspension.

Reference to Discipline Committee or Registration Committee

(2) The Registrar shall refer the application to the Discipline Committee or, where the revocation or suspension was on the grounds of incapacity, to the Registration Committee, which shall hold a hearing respecting and decide upon the application, and shall report its decision and reasons to the Board and to the former licensee.

Procedures

(3) The provisions of this Act applying to proceedings of the Appeal Board on hearings and review in respect of applications for registration, except subsection 9 of section 17 apply, *mutatis mutandis*, to proceedings of the Registration Committee and Discipline Committee under this section.

Investigation of members

21.—(1) Where the Registrar believes on reasonable and probable grounds that a licensee has committed an act of professional misconduct or incompetence, the Registrar may by order appoint one or more persons to make an investigation to ascertain whether such an act has occurred, and the person appointed shall report the result of his investigation to the Registrar.

Powers of investigator

(2) For purposes relevant to the subject-matter of an investigation under this section, the person appointed to make the investigation may inquire into and examine the practice of the licensee in respect of whom the investigation is being made and may, upon production of his appointment, enter at any reasonable time the business premises of such person and examine books, records, documents and things relevant to

the subject-matter of the investigation, and for the purposes of the inquiry, the person making the investigation has the powers of a commission under Part II of *The Public Inquiries Act, 1971*, which Part applies to such inquiry as if it were an inquiry under that Act. 1971, c. 49

(3) No person shall obstruct a person appointed to make an investigation under this section or withhold from him or conceal or destroy any books, records, documents or things relevant to the subject-matter of the investigation. Obstruction of investigator

(4) Where a provincial judge is satisfied, upon an *ex parte* application by the person making an investigation under this section, that the investigation has been ordered and that such person has been appointed to make it and that there is reasonable ground for believing there are in any building, dwelling, receptacle or place any books, records, documents or things relating to the person whose affairs are being investigated and to the subject-matter of the investigation, the provincial judge may, whether or not an inspection has been made or attempted under subsection 2, issue an order authorizing the person making the investigation, together with such police officer or officers as he calls upon to assist him, to enter and search, if necessary by force, such building, dwelling, receptacle or place for such books, records, documents or things and to examine them, but every such entry and search shall be made between sunrise and sunset unless the provincial judge, by the order, authorizes the person making the investigation to make the search at night. Search warrant

(5) Any person making an investigation under this section may, upon giving a receipt therefor, remove any books, records, documents or things examined under subsection 2 or 4 relating to the person whose practice is being investigated and to the subject-matter of the investigation for the purpose of making copies of such books, records or documents, but such copying shall be carried out with reasonable dispatch and the books, records or documents in question shall be promptly thereafter returned to the person whose practice is being investigated. Removal of books, etc.

(6) Any copy made as provided in subsection 5 and certified to be a true copy by the person making the investigation is admissible in evidence in any action, proceeding or prosecution as *prima facie* proof of the original book, record or document and its contents. Admissibility of copies

(7) The Registrar shall report the results of the investigation to the Board or the Executive Committee or to such other committee as he considers appropriate. Report of Registrar

Matters confidential

22.—(1) Every person employed in the administration of this Act, including any person making an inquiry or investigation under section 21 and any member of the Board or a Committee shall preserve secrecy with respect to all matters that come to his knowledge in the course of his duties, employment, inquiry or investigation under section 21 and shall not communicate any such matters to any other person except,

(*a*) as may be required in connection with the administration of this Act and the regulations and by-laws or any proceedings under this Act or the regulations;

(*b*) to his counsel; or

(*c*) with the consent of the person to whom the information relates.

Testimony in civil suit

(2) No person to whom subsection 1 applies shall be required to give testimony in any civil suit or proceeding with regard to information obtained by him in the course of his duties, employment, inquiry or investigation except in a proceeding under this Act or the regulations or by-laws.

Regulations

23.—(1) Subject to the approval of the Lieutenant Governor in Council and with prior review by the Minister, the Board may make regulations,

(*a*) respecting any matter ancillary to the provisions of this Act with regard to the issuing, suspension and revocation of licences;

(*b*) prescribing classes of licences and governing the requirements and qualifications for the issuing of licences or any class thereof and prescribing the terms and conditions thereof;

(*c*) providing for the maintenance and inspection of registers of persons permitted to practise;

(*d*) governing standards of practice for the profession;

(*e*) authorizing persons other than licensees to perform specified acts in the practice of denture therapy under the supervision or direction of a licensee;

(*f*) prohibiting the practice of denture therapy where there is a conflict of interest and defining the activities that shall constitute a conflct of interest for the purpose;

(*g*) defining professional misconduct for the purposes of this Act;

(*h*) providing for a program of continuing education of licensees to maintain their standard of competence and requiring licensees to participate in such continuing education;

(*i*) providing for the establishment and operation of an appraisal committee for the purposes of examining and assessing the standard of practice of licensees and reporting thereon to the Board and examining and assessing the standards of practice, qualifications and continuing education of members and making recommendations to the Registration Committee thereon;

(*j*) regulating, controlling and prohibiting the use of terms, titles or designations by licensees or groups or associations of licensees in respect of their practices;

(*k*) respecting the reporting and publication of decisions in disciplinary matters;

(*l*) providing for the compilation of statistical information on the supply, distribution and professional activities of licensees and requiring licensees to provide the information necessary to compile such statistics;

(*m*) respecting the duties and authority of the Registrar;

(*n*) requiring and providing for the inspection and examination of the office, records and equipment of licensees in connection with their practice;

(*o*) prescribing the records that shall be kept respecting patients;

(*p*) requiring the payment of annual fees by licensees and fees for licensing, examinations and continuing education, including penalties for late payment, and fees for anything the Registrar is required or authorized to do, and prescribing the amounts thereof;

(*q*) prescribing forms and providing for their use;

(*r*) providing for the exemption of any licensee from any provision of the regulations under such special circumstances in the public interest as the Board considers advisable.

Regulations by Lieutenant Governor in Council

(2) Where the Minister requests in writing that the Board make, amend or revoke a regulation under subsection 1 and the Board has failed to do so within sixty days after the request, the Lieutenant Governor in Council may make the regulation, amendment or revocation specified in the request.

By-laws

24.—(1) The Board may pass by-laws relating to the administrative and domestic affairs of the Board not inconsistent with this Act and the regulations and without limiting the generality of the foregoing,

(*a*) prescribing the seal of the Board;

(*b*) providing for the execution of documents by the Board;

(*c*) respecting banking and finance;

(*d*) fixing the financial year of the Board and providing for the audit of the accounts and transactions of the Board;

(*e*) respecting the calling, holding and conducting of meetings of the Board and the duties of members of the Board;

(*f*) respecting the calling, holding and conducting of meetings of licensees;

(*g*) providing for the appointment, composition, powers and duties of such additional or special committees as may be required;

(*h*) delegating to the Executive Committee such powers and duties of the Board as are set out in the by-law, other than the power to make, amend or revoke regulations and by-laws;

(*i*) providing for a code of ethics;

(*j*) prescribing forms and providing for their use;

(*k*) providing procedures for the making, amending and revoking of the by-laws;

(*l*) respecting management of the property of the Board;

(*m*) respecting the application of the funds of the Board and the investment and reinvestment of any of its funds not immediately required, and for the safekeeping of its securities;

(*n*) providing for the entering into arrangements by the Board for licensees respecting indemnity for professional liability and respecting the payment and remittance of premiums in connection therewith and prescribing levies to be paid by licensees and exempting licensees or any class thereof from all or part of any such levy;

(*o*) respecting membership of the Board in a national organization with similar functions, the payment of an annual assessment and provision for representatives at meetings;

(*p*) providing for the appointment of inspectors for the purposes of this Act;

(*q*) respecting all of the things that are considered necessary for the efficient conduct of the affairs of the Board.

Distribution of by-laws

(2) A copy of the by-laws made under subsection 1 and amendments thereto,

(*a*) shall be forwarded to the Minister;

(*b*) shall be forwarded to each licensee; and

(*c*) shall be available for public inspection in the office of the Board.

Restraining orders

25.—(1) Where it appears to the Board that any person does not comply with any provision of this Act or the regulations, notwithstanding the imposition of any penalty in respect of such non-compliance and in addition to any other rights it may have, the Board may apply to a judge of the High Court for an order directing such person to comply with such provision, and upon the application the judge may make such order or such other order as the judge thinks fit.

Appeal

(2) An appeal lies to the Supreme Court from an order made under subsection 1.

Penalties

26.—(1) Every person who is in contravention of section 3 is guilty of an offence and on summary conviction is liable for the first offence to a fine of not more than $2,000 and for each subsequent offence to a fine of not more than $2,000 or to imprisonment for a term of not more than six months, or to both.

Idem

(2) Every person who, not being a licensee, uses an occupational designation prescribed or prohibited by the regulations to be used by licensees or a like designation is guilty of an offence and on summary conviction is liable for the first offence to a fine of not more than $1,000 and for each subsequent offence to a fine of not more than $2,000.

Idem

(3) Any person who obstructs a person appointed to make an investigation under section 21 in the course of his duties is guilty of an offence and on summary conviction is liable to a fine not exceeding $2,000.

Service of notice

27.—(1) Except where otherwise provided, any notice or document required by this Act to be served may be served personally or by prepaid first class mail addressed to the person to whom notice is to be given at his last known address and, where notice is served by mail, the service shall be deemed to have been made on the fifth day after the day of mailing unless the person to whom notice is given establishes that he, acting in good faith, through absence, accident, illness or other cause beyond his control, did not receive the notice, or did not receive the notice until a later date.

Administering oaths

(2) Every member of the Appeal Board and of the Discipline Committee has power to administer oaths and affirmations for the purposes of any of its proceedings.

Registrar's certificate as evidence

28. Any statement containing information from the records required to be kept by the Registrar under this Act, purporting to be certified by the Registrar under the seal of the Board is admissible in evidence in all courts as *prima facie* proof of the facts stated therein without proof of the appointment or signature of the Registrar and without proof of the seal.

Immunity of Appeal Board and committees

29. No action or other proceeding for damages shall be instituted against the Appeal Board, the Board, a committee of the Board or any member of the Appeal Board, the Board or committee, or any officers, employees, agents or appointees of the Appeal Board or the Board for any act done in good faith in the performance or intended performance of any duty or in the exercise or the intended exercise of any power under this Act, a regulation or a by-law, or for any neglect or default in the performance or exercise in good faith of such duty or power.

Limitation for malpractice actions

30. No licensee is liable to any action arising out of negligence or malpractice in respect of professional services requested or rendered unless such action is commenced

within one year from the date when the person commencing the action knew or ought to have known the fact or facts upon which he alleges negligence or malpractice.

31.—(1) Any person who makes or causes to be made any wilful falsification in any matter relating to a register or issues a false licence, certificate or document with respect to registration is guilty of an offence and on summary conviction is liable to a fine of not more than $5,000. Falsification of certificates

(2) Any person who wilfully procures or attempts to procure himself to be licensed or registered under this Act by knowingly making any false representation or declaration or by making a fraudulent representation or declaration, either orally or in writing, is guilty of an offence and on summary conviction is liable to a fine of not more than $5,000 and every person knowingly aiding and assisting him therein is guilty of an offence and on summary conviction is liable to a fine of not more than $5,000. Offences for false representation

32. Where licensing under this Act is required to permit the lawful doing of any act or thing, if in any prosecution it is proven that the accused has done such act or thing, the burden of proving that he was so licensed under this Act rests upon the accused. Onus of proof respecting licensing

33. *The Denture Therapists Act, 1972*, being chapter 163, is repealed. Repeal

34. This Act comes into force on a day to be named by proclamation of the Lieutenant Governor. Commencement

35. This Act may be cited as *The Denture Therapists Act, 1974*. Short title

The Denture Therapists Act, 1974

1st Reading

May 16th, 1974

2nd Reading

June 14th, 1974

3rd Reading

June 18th, 1974

THE HON. F. S. MILLER
Minister of Health

1974

BILL 71 **Government Bill**

4TH SESSION, 29TH LEGISLATURE, ONTARIO
23 ELIZABETH II, 1974

An Act to amend The Dentistry Act

THE HON. F. S. MILLER
Minister of Health

TORONTO
PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO

Explanatory Notes

Section 1. The repealed section provided for a low cost denture service.

Section 2. The amendment is complementary to the Bill entitled *The Denture Therapists Act, 1974*.

Section 3. The amendment is complementary to the Bill entitled *The Denture Therapists Act, 1974*.

BILL 71 **1974**

An Act to amend The Dentistry Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 20*a* of *The Dentistry Act*, being chapter 108 of the Revised Statutes of Ontario, 1970, as enacted by the Statutes of Ontario, 1972, chapter 141, section 3, is repealed. s. 20*a*, repealed

2. Subsection 4*a* of section 21 of the said Act, as enacted by the Statutes of Ontario, 1972, chapter 141, section 2, is repealed and the following substituted therefor: s. 21 (4*a*), re-enacted

(4*a*) Nothing done in the practice of denture therapy or the practice of supervised denture therapy as defined in *The Denture Therapists Act, 1974* by a denture therapist licensed or provisionally licensed thereunder shall be deemed to be a contravention of this section. Idem 1974, c. ...

3. Subsection 1 of section 21*a* of the said Act, as enacted by the Statutes of Ontario, 1972, chapter 141, section 3, is amended by striking out "required by section 15 of *The Denture Therapists Act, 1972*" in the third and fourth lines and inserting in lieu thereof "set out in subsection 11 of section 4 of *The Denture Therapists Act, 1974*". s. 21*a*(1), amended

4. This Act comes into force on a day to be named by proclamation of the Lieutenant Governor. Commencement

5. This Act may be cited as *The Dentistry Amendment Act, 1974*. Short title

An Act to amend
The Dentistry Act

1st Reading

May 16th, 1974

2nd Reading

3rd Reading

THE HON. F. S. MILLER
Minister of Health

(*Government Bill*)

1974

BILL 71

4TH SESSION, 29TH LEGISLATURE, ONTARIO
23 ELIZABETH II, 1974

An Act to amend The Dentistry Act

THE HON. F. S. MILLER
Minister of Health

TORONTO
PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO

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Minister of Health

1974

BILL 72 Government Bill

4TH SESSION, 29TH LEGISLATURE, ONTARIO
23 ELIZABETH II, 1974

The Education Act, 1974

THE HON. T. L. WELLS
Minister of Education

TORONTO
PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO

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Explanatory Note

The Education Act, 1974 is basically a consolidation of the provisions that are now included in *The Ministry of Education Act, The Public Schools Act, The Schools Administration Act, The Secondary Schools and Boards of Education Act* and *The Separate Schools Act*. Some new concepts have been introduced and are so noted under the appropriate Parts.

The material in the above Acts has been arranged according to topic; duplications and ambiguities have been removed and the terminology has been revised to conform to modern usage.

Interpretation

The terms that appear throughout the existing Acts and that have general application are all defined in this section.

Part I. Ministry of Education

This Part includes those matters that now comprise *The Ministry of Education Act*. The existing material is basically intact although some rearrangement has taken place. The provisions presently in the Act governing the calculation of fees receivable by a board for non-resident students are to be included in regulations to be made by the Minister under clause *e* of subsection 3 of section 10.

Part II. School Attendance

All provisions that relate to compulsory school attendance, school attendance counsellors and the conditions under which a person has the right to attend a public, separate or secondary school, suspension and expulsion are grouped in this Part.

The provisions of *The Public Schools Act, The Secondary Schools and Boards of Education Act* and *The Separate Schools Act* that apply to a child of an unassessed mother who is the sole support of her child are combined in section 41 and made to apply to either parent.

Part III. Public and Secondary Schools

The provisions of *The Public Schools Act* and *The Secondary Schools and Boards of Education Act* that pertain to the organization of public and secondary school boards and the election of members thereto are combined in this Part.

The provisions in respect of school visitors have been revised in section 49 to provide for parents and school board members to visit public and secondary schools.

Provision is made to establish and describe by regulation school divisions in that part of Ontario that is not in the territorial districts. The provisions that allow school divisions to be altered or combined are continued.

In sections 60-66, the present "isolate" public school jurisdictions in the territorial districts, comprising 27 rural school sections and 10 township school areas which are too remote to be included in larger units of administration, are established as district school areas with one simplified form of organization.

Provision is made in section 68 (5) for the payment of fees for non-resident pupils in certain hospital and treatment centre schools operated by boards established under section 68.

Part IV. Roman Catholic Separate Schools

This Part deals with the establishment of separate school zones, the organization of separate school boards and the election of trustees and contains those provisions required to retain the special identity of separate schools for Roman Catholics now found in *The Separate Schools Act*. Those matters that are essentially common to all schools such as pupil attendance, property and financial matters are placed elsewhere to avoid duplications.

The qualifications of Roman Catholic separate school trustees are brought into line with those required for members of divisional boards who are elected by separate school electors (namely, Canadian citizen, full age of 18, resident in the area of jurisdiction of the board and a separate school supporter or elector) and are contained in section 192, Part VII.

The requirement of a minimum of five heads of families in a school section or former school section for the establishment of a new separate school zone is changed in section 83 to five heads of families in a six-mile square area.

The provision respecting school visitors in section 133 is parallel to the corresponding provision for public schools.

Part V. Protestant Separate Schools

Only some minor changes in terminology consistent with corresponding changes elsewhere in the Act have been made in this Part.

Part VI. Boards

This Part deals with the powers and duties of school boards and brings together in sub-Parts the provisions relating to fringe benefits for employees, agreements with other boards and with municipalities and conservation authorities, transportation of pupils, allowances for members of a board and committees thereof, the acquiring, holding and disposal of property, the duties of officers of a board, matters affecting meetings of a board and the validity of elections.

Provision is made in section 146 to require a board to carry at least the amount of insurance on pupils carried in board owned vehicles as a private operator must carry.

Boards are authorized under section 147, par. 43, to make agreements with certain post-secondary educational institutions for the provision and use of educational and recreational facilities and under section 163 (3) to assist in the cost of transporting children to a retarded children's centre.

Part VII. Board Members—Qualifications, Resignations and Vacancies

The provisions of *The Public Schools Act*, *The Schools Administration Act*, *The Secondary Schools and Boards of Education Act* and *The Separate Schools Act* respecting the qualifications and disqualifications of board members, resignation of board members and the filling of a vacancy are grouped together in this Part.

Part VIII. Finance

This Part brings together those matters that are essentially financial in nature and eliminates much of the duplication relating thereto that

existed in the former Acts. It includes matters relating to auditors, debentures, estimates, apportionment of costs, requisitions, borrowing, and fees payable for non-resident pupils.

Special provision is made in respect of fees payable by a board for its resident pupils who are enrolled for varying periods in centres for the treatment of children who are crippled or who have cerebral palsy.

Part IX. Teachers

This Part brings together matters that relate primarily to teachers including contracts, duties of teachers and principals, pupil records, and Boards of Reference. The terminology is appropriately updated but no significant changes have been made.

Part X. Supervisory Officers

This Part contains the provisions relating to supervisory officers that are now in the existing Acts with certain changes relating to the appointment, dismissal and duties of such officers.

The definition of supervisory officer has been changed to permit qualified persons other than teachers to be supervisory officers

The chief executive officer of a separate school board is designated as director of education rather than superintendent of separate schools.

Part XI. French Language Instruction

The Part incorporates the provisions respecting French-language elementary and secondary schools, French-language advisory committees and the Language of Instruction Commission that are now contained in *The Schools Administration Act* and *The Secondary Schools and Boards of Education Act*.

Part XII. General

This Part repeals the provisions of the former Acts that are now incorporated in Parts I to XI.

BILL 72 **1974**

The Education Act, 1974

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

INTERPRETATION

1.—(1) In this Act, Interpretation

1. "adjoining" means touching at any point;

2. "average daily enrolment" for a calendar year means the number obtained by adding,

   i. the sum of,

      a. the product of 0.3 and the number of pupils registered for more than half-day or half-time attendance on the last school day in each of the months of January and April,

      b. the product of 0.4 and the number of pupils registered for more than half-day or half-time attendance on the last school day in September,

      c. the product of 0.15 and the number of pupils registered for half-day or half-time attendance on the last school day in each of the months of January and April,

      d. the product of 0.2 and the number of pupils registered for half-day or half-time attendance on the last school day in September,

      e. for each pupil, except a pupil referred to in subparagraph ii, who is registered

for less than half-day or half-time attendance, the product of 0.06 and the number of hours and fractions thereof of instruction for which such pupil is registered on the last school day in each of the months of January and April, and

f. for each pupil, except a pupil referred to in subparagraph ii, who is registered for less than half-day or half-time attendance, the product of 0.08 and the number of hours and fractions thereof of instruction for which such pupil is registered on the last school day in September, and

ii. the result obtained by,

a. multiplying, for each summer-school course and for each evening course established by the board, the number of pupils enrolled in the course by one-fifth of the number of hours of instruction in the course,

b. ascertaining the sum of the products obtained under sub-subparagraph a,

c. subtracting from the sum obtained under sub-subparagraph b, one-fifth of the number of hours lost as a result of late registrations or early withdrawals for any cause by all pupils enrolled in such courses, and

d. dividing the result obtained under sub-subparagraph c by the number of school days in the calendar year;

3. "board" means a board of education, public school board, secondary school board, Roman Catholic separate school board or Protestant separate school board;

4. "board of education" includes a divisional board of education;

5. "city" includes a separated town and the portion of a city that is in one school division;

6. "combined separate school zone" means a union of two or more separate school zones;

7. "county" includes a provisional county and united counties;

8. "county combined separate school board" means a separate school board established for a county combined separate school zone;

9. "county combined separate school zone" means a union of the separate school zones whose centres are within an area designated by the regulations that includes a county or all or part of a regional municipality that is not in a territorial district;

10. "county municipality" means a municipality that forms part of a county for municipal purposes and includes a municipality, other than a city, that forms part of a regional municipality that is not in the territorial districts;

11. "current expenditure" means an expenditure for operating purposes or a permanent improvement from funds other than those arising from the sale of a debenture, from a capital loan or from a loan pending the sale of a debenture;

12. "current revenue" means all amounts earned by a board, together with the amounts to which it becomes entitled, other than by borrowing, that may be used to meet its expenditures;

13. "debt charge" means the amount of money necessary annually,

    i. to pay the principal due on long-term debt not payable from a sinking fund,

    ii. to provide a fund for the redemption of debentures payable from a sinking fund, and

    iii. to pay the interest due on all debt referred to in subparagraphs i and ii;

14. "defined city" means,

    i. the City of Hamilton,

    ii. the City of London, and

    iii. the City of Windsor;

15. "district combined separate school board" means a separate school board established for a district combined separate school zone;

16. "district combined separate school zone" means a union of the separate school zones whose centres are within an area in the territorial districts that is designated by the regulations;

17. "district municipality" means a municipality, except a city, in a territorial district;

18. "district school area" means a school section in the territorial districts that is not a school division or a school section designated under section 68;

19. "divisional board" means a divisional board of education;

20. "elementary school" means a public school, Roman Catholic separate school or Protestant separate school;

21. "guardian" means a person who has been appointed by order of a court as the legal guardian of a child in place of a parent;

22. "head office" of a board means the place at which the minute book, financial statements and records, and seal of the board are ordinarily kept;

23. "intermediate division" means the division of the organization of a school comprising the first four years of the program of studies immediately following the junior division;

24. "judge" means the judge of the county or district court of the county or district in which the head office of the board is situate;

25. "junior division" means the division of the organization of an elementary school comprising the first three years of the program of studies immediately following the primary division;

26. "locality" means a part of territory without municipal organization that is deemed to be a district municipality for the purposes of a divisional board or of a district combined separate school board;

27. "Minister" means the Minister of Education;

28. "Ministry" means the Ministry of Education;

29. "municipality" means a city, town, village, township or improvement district;

30. "occasional teacher" means a teacher employed to teach as a substitute for a permanent, probationary or temporary teacher who has died during the school year or who is absent from his regular duties for a temporary period that is less than a school year and that does not extend beyond the end of a school year;

31. "parcel of land" means a parcel of land that by *The Assessment Act* is required to be separately assessed; R.S.O. 1970, c. 32

32. "part-time teacher" means a teacher employed by a board on a regular basis for other than full-time duty;

33. "permanent improvement" includes,

    i. a school site and an addition or an improvement to a school site,

    ii. a building used for instructional purposes and any addition, alteration or improvement thereto,

    iii. an administration office, a residence for teachers or caretakers and a storage building for equipment and supplies, and any addition, alteration or improvement thereto,

    iv. furniture, furnishings, library books, instructional equipment and apparatus, and equipment required for maintenance of the property,

    v. a bus or other vehicle, including watercraft, for the transportation of pupils,

    vi. the obtaining of a water supply or an electrical power supply on the school property or the conveying of a water supply or an electrical power supply to the school from outside the school property,

    vii. initial payments or contributions for past service pensions to a pension plan for officers and other employees of the board;

34. "permanent teacher" means a teacher employed by a board under a permanent teacher's contract made in accordance with the regulations and includes a teacher whose contract is deemed to include the terms and conditions contained in the form of contract prescribed in the regulations for a permanent teacher;

1972, c. 95

35. "polling list" means a polling list as defined in *The Municipal Elections Act, 1972*;

36. "population" means the population as determined by the latest census taken under section 23 or 23*a* of *The Assessment Act*;

R.S.O. 1970, c. 32

37. "prescribed" means prescribed by the regulations;

38. "primary division" means the division of the organization of an elementary school comprising junior kindergarten, kindergarten and the first three years of the program of studies immediately following kindergarten;

39. "private school" means an institution at which instruction is provided at any time between the hours of 9 a.m. and 4 p.m. on any school day for five or more pupils who are of or over compulsory school age in any of the subjects of the elementary or secondary school courses of study and that is not a school as defined in this section;

40. "probationary teacher" means a teacher employed by a board under a probationary teacher's contract made in accordance with the regulations;

41. "provincial supervisory officer" means a supervisory officer employed by the Minister;

42. "public school elector", in respect of an area for which one or more members of a board are to be elected by public school electors, means a public school elector under *The Municipal Elections Act, 1972*, who is qualified to vote at the election for such members in such area;

43. "regulations" means the regulations made under this Act;

R.S.O. 1970, c. 284

44. "reserve fund" means a reserve fund established under section 308 of *The Municipal Act*;

45. "Roman Catholic" includes a Catholic of the Greek or Ukrainian Rite in union with the See of Rome;

46. "rural separate school" means a separate school for Roman Catholics in a township or territory without municipal organization that is not part of a county or district combined separate school zone;

47. "rural separate school zone" means a separate school zone in respect of a rural separate school;

48. "school" means,

    i. the body of public school pupils or separate school pupils or secondary school pupils that is organized as a unit for educational purposes under the jurisdiction of the appropriate board, or

    ii. the body of pupils enrolled in any of the elementary or secondary school courses of study in an educational institution operated by the Government of Ontario,

    and includes the teachers and other staff members associated with such unit or institution and the lands and premises used in connection therewith;

49. "school day" means a day that is within a school year and is not a school holiday;

50. "school division" means the area in which a divisional board has jurisdiction;

51. "school section" means the area in which a public school board or board of education has jurisdiction for public school purposes;

52. "school site" means land or interest therein or premises required by a board for a school, school playground, school garden, teacher's residence, caretaker's residence, gymnasium, offices, parking areas or for any other school purpose;

53. "school year" means the period prescribed as such by, or approved as such under, the regulations;

54. "secondary school" means a school that is under the jurisdiction of a secondary school board;

55. "secondary school district" means the area in which a secondary school board or a board of education has jurisdiction for secondary school purposes;

56. "secretary" and "treasurer" includes a secretary-treasurer;

57. "senior division" means the division of the organization of a school comprising the three years of the program of studies following the intermediate division;

58. "separated town" means a town separated for municipal purposes from the county in which it is situated;

59. "separate school elector", in respect of an area for which one or more members of a board are to be elected by separate school electors, means a separate school elector under *The Municipal Elections Act, 1972*, who is qualified to vote at the election of such members in such area;

1972, c. 95

60. "separate school supporter" means a Roman Catholic who is enumerated as a separate school supporter in the census taken under section 23 of *The Assessment Act* or in respect of whom notice has been given under section 116 in respect of property that he occupies as owner or tenant or unoccupied property that he owns and notice of withdrawal of support under section 117 has not been given, and includes the Roman Catholic spouse of such owner or tenant;

R.S.O. 1970, c. 32

61. "separate school zone" means the area in which property may be assessed to support a separate school or schools for Roman Catholics under the jurisdiction of one separate school board;

62. "supervisory officer" means a person who is qualified in accordance with the regulations governing supervisory officers and who is employed by a board or by the Ministry to perform such supervisory and administrative duties as are required by this Act, the regulations, the board and the Minister;

63. "teacher" means a person who holds a valid certificate of qualification as a teacher in an elementary or a secondary school in Ontario;

64. "temporary teacher" means a person employed to teach under the authority of a letter of permission;

65. "urban municipality" means a city, town or village;

66. "urban school section" means a school section, except a school division or a district school area, that includes a municipality;

67. "urban separate school" means a separate school for Roman Catholics in an urban municipality;

68. "urban separate school zone" means a separate school zone established in an urban municipality that does not form part of a county or district combined separate school zone;

69. "vocational school" includes a special vocational school. R.S.O. 1970, c. 111, s. 1 (*d*); R.S.O. 1970, c. 424, s. 1; R.S.O. 1970, c. 425, s. 27 (1); R.S.O. 1970, c. 430, ss. 17, 80 (1); 1971, c. 90, s. 1 (1); 1972, c. 1, s. 62; 1972, c. 73, s. 1; 1972, c. 75, s. 6 (1, 2); 1972, c. 77, s. 1 (1, 3, 4); 1973, c. 92, s. 1, *amended*.

Authority or obligation of parent vested in pupil of 18 years of age

(2) Where by or under this Act any authority or right is vested in, or any obligation is imposed upon, or any reimbursement may be made to, a parent or guardian of a pupil, such authority, right, obligation or reimbursement shall, where the pupil is an adult, be vested in or imposed upon or made to the pupil, as the case may be. 1972, c. 77, s. 1 (6).

Existing school arrangements continued

(3) Until altered under the authority of this or any other Act, all school jurisdictions and boards continue as they now exist and all members of boards duly elected and all officers duly appointed continue in office, and all agreements, contracts, obligations, assessments and tax bills heretofore duly made in relation to elementary and secondary schools and existing when this Act takes effect continue subject to the provisions of this Act. R.S.O. 1970, c. 385, s. 3.

Questions re proceedings as to formation of school section

(4) Where any question arises touching the validity of any proceeding with respect to the formation, alteration or dissolution of a school section or touching any by-law with respect to any of such matters, the question shall be raised, heard and determined upon a summary application to the judge, and no proceeding or by-law with respect to the formation, alteration or dissolution of a school section is invalid or shall be set aside because of failure to comply with the provisions of any Act applicable to the proceeding or by-law, unless, in the opinion of the judge before which the proceeding or by-law is called in question, the proceeding or by-law, if allowed to stand, would cause substantial injustice to be done to any person affected thereby. R.S.O. 1970, c. 385, s. 52, *amended*.

Amendment of references R.S.O. 1970, cc. 111, 385, 424, 425, 430 1974, c. ...

(5) A reference in any Act or regulation to *The Department of Education Act*, *The Ministry of Education Act*, *The Public Schools Act*, *The Schools Administration Act*, *The Secondary Schools and Boards of Education Act* or *The Separate Schools Act* shall be deemed to be a reference to *The Education Act, 1974*.

Effect on separate schools

(6) The consolidation in this Act of the Acts referred to in section 272 shall not adversely affect any right or privilege respecting separate schools enjoyed by separate school boards or their supporters under the Acts repealed by this Act as they existed immediately prior to the coming into force of this Act. *New.*

PART I

MINISTRY OF EDUCATION

Ministry continued

2.—(1) The ministry of the public service known as the Ministry of Education is continued.

Minister to have charge

(2) The Minister shall preside over and have charge of the Ministry. R.S.O. 1970, c. 111, s. 2; 1972, c. 1, s. 61 (3).

Administration

(3) The Minister is responsible for the administration of this Act and the regulations and of such other Acts and the regulations thereunder as may be assigned to him by the Lieutenant Governor in Council. R.S.O. 1970, c. 111, s. 3.

Annual report

3. The Minister shall, after the close of each fiscal year, submit to the Lieutenant Governor in Council a report upon the affairs of the Ministry for the immediately preceding fiscal year and shall then lay the report before the Assembly if it is in session or, if not, at the next ensuing session. 1972, c. 1, s. 61 (4), *amended.*

Additions to enrolment in special cases

4. The Minister may, in respect of a school, require to be included in the enrolment on any date the number of pupils who were absent from school because of any condition considered by the Minister to constitute a special circumstance or an emergency. 1973, c. 44, s. 2, *amended.*

Closing of school or class

5.—(1) Subject to the approval of the Lieutenant Governor in Council, the Minister may order the closing of a school or any class thereof for a specified period. R.S.O. 1970, c. 111, s. 6 (1).

Pupils deemed in attendance

(2) Where a school or class is closed for a specified period under subsection 1, the pupils in such school or class shall for all purposes, including the calculation of general legislative grants and fees, be deemed to be in attendance. 1971, c. 89, s. 2.

Guarantee of debentures

6.—(1) The Lieutenant Governor in Council may authorize the Treasurer of Ontario to guarantee payment by the Province of any debentures issued by a board in Ontario for any school purpose for which the board is authorized to issue debentures.

(2) The form of the guarantee and the manner of its execution shall be determined by the Lieutenant Governor in Council, and every guarantee given or purporting to be given under this section is binding upon the Province and is not open to question upon any ground whatsoever. Form of guarantee

(3) Any debenture issued by a board, payment of which is guaranteed by the Province under this section, is valid and binding upon the board by which it is issued and the ratepayers thereof, according to its terms, and the validity of any debenture so guaranteed is not open to question upon any ground whatsoever. R.S.O. 1970, c. 111, s. 7. Validity of guaranteed debentures

7. Notwithstanding anything in any Act fixing the rate of interest to be paid or credited to any board by the Treasurer of Ontario upon school securities, sinking funds or debentures deposited with or in the hands of the Treasurer of Ontario either as an investment by the Province or for investment on behalf of a board, the rate at which interest shall be allowed to, paid by or credited to a board upon any such securities, sinking funds or debentures heretofore or hereafter deposited with or purchased by the Treasurer of Ontario shall be the current rate of interest as fixed from time to time by the Lieutenant Governor in Council, to be based upon the average rate of interest actually payable upon the moneys borrowed on behalf of Ontario as a provincial loan and then outstanding. R.S.O. 1970, c. 111, s. 8. Fixing rate of interest on debentures, etc., held by Treasurer

8.—(1) The Minister may, Powers of Minister:

(*a*) name the diplomas and certificates that are to be granted to pupils and prescribe their form and the conditions under which they are to be granted; diplomas and certificates

(*b*) prescribe the courses of study that shall be taught and the courses of study that may be taught in the primary, junior, intermediate and senior divisions; courses of study

(*c*) in respect of schools under the jurisdiction of a board, courses and areas of study

(i) issue curriculum guidelines and require that courses of study be developed therefrom and establish procedures for the approval of courses of study that are not developed from such curriculum guidelines,

(ii) prescribe areas of study and require that courses of study be grouped thereunder and establish procedures for the approval of alternative areas of study under which courses of study shall be grouped, and

(iii) approve or permit boards to approve,

a. courses of study that are not developed from such curriculum guidelines, and

b. alternative areas of study under which courses of study shall be grouped,

and authorize such courses of study and areas of study to be used in lieu of or in addition to any prescribed course of study or area of study;

procedures

(*d*) establish procedures by which and the conditions under which books and other learning materials are selected and approved by the Minister;

textbooks, reference books, etc.

(*e*) select and approve for use in schools textbooks, library books, reference books and other learning materials;

publication of book lists

(*f*) cause to be published from time to time lists of textbooks, reference books and library books, selected and approved by the Minister for use in elementary and secondary schools;

daily register

(*g*) prescribe the form of the register of attendance and the manner of its use in recording the daily attendance of pupils of schools, or approve the use of an alternate method of recording such daily attendance, and prescribe the form in which enrolment and attendance data shall be submitted to the Minister;

letter of standing

(*h*) grant a letter of standing to a person who is a qualified teacher in a jurisdiction outside Ontario and who holds academic and professional qualifications equivalent to those required in Ontario at the time of the issuing of the letter of standing;

letter of permission

(*i*) grant a letter of permission to a board authorizing the board to employ as a teacher a person not qualified as such if the Minister is satisfied that no teacher is available, but a letter of permission shall be effective only for the period, not exceeding one year, that the Minister may specify therein;

letter of approval

(*j*) grant a temporary letter of approval to a board authorizing the board to appoint or assign, for a period not exceeding one year, a teacher to teach a subject or hold a position where the teacher does not hold the certificate required for teaching the subject;

withdraw letter

(*k*) withdraw any letter of permission or temporary letter of approval granted under this Act;

(*l*) suspend or cancel and reinstate any interim, temporary, permanent, special or other certificate of qualification or letter of standing; suspend or cancel

(*m*) accept in lieu of any requirement prescribed for a teacher, head of a department, principal, director, supervisor or supervisory officer, or for a candidate for a certificate or for admission to a school, such experience, academic scholarship or professional training as he considers equivalent thereto, and may require such evidence thereof as he considers necessary; accept equivalent qualification

(*n*) require employees of school boards to submit to medical examinations; medical examinations

(*o*) provide or approve courses for teachers, principals and supervisory officers; courses

(*p*) provide for the development, distribution and supervision by the Ministry of correspondence courses; correspondence courses

(*q*) provide for, and prescribe the conditions of, the granting of scholarships and awards to pupils; scholarships

(*r*) in respect of teachers' colleges, teachers' colleges

(i) define courses of study and subjects to be taught,

(ii) recommend reference books and library books,

(iii) approve textbooks,

(iv) determine the number of terms and the dates upon which each term begins and ends, and

(v) grant Bachelor of Education degrees;

(*s*) in respect of schools for the deaf and the blind, determine the number of terms and the dates upon which each term begins and ends; provincial schools

(*t*) apportion and pay all sums received for educational purposes from the Government of Canada or any source other than an appropriation by the Legislature, in accordance with the terms of the grant, if any, and otherwise in any manner he considers proper; apportion federal grants

(*u*) make payments out of funds appropriated therefor by the Legislature to a board, an individual, a voluntary association or a corporation without share capital having objects of a charitable or educational nature, educational advancement programs, activities and projects and accountable advances

(i) to assist or advance programs, activities or projects for students that involve a cultural

and educational exchange with other provinces and countries, provincial or interprovincial travel, school twinning and related assistance, leadership training, or summer employment, and

(ii) to foster and promote educational advancement by means of programs, activities or projects that are provided for visiting educational officials, designed to further the professional development of teachers and supervisory officers including exchange of such personnel, or considered by the Minister to be valuable in advancing a particular area of study,

and, subject to the terms and conditions that are approved for such purpose by the Lieutenant Governor in Council, make an accountable advance to the recipient of a payment under this clause or to an individual, not being a member of the public service, who conducts or assists in conducting or participates in any such program, activity or project. R.S.O. 1970, c. 111, s. 10 (1); 1972, c. 73, s. 3; 1973, c. 44, s. 3, *amended*.

Application

R.S.O. 1970, c. 410

(2) An act of the Minister under this section is not a regulation within the meaning of *The Regulations Act*. R.S.O. 1970, c. 111, ss. 9, 12 (1), pars. 19, 20; 1972, c. 73, s. 2. *amended*.

Powers of Minister:

9. The Minister may,

advisory body

(*a*) appoint such advisory or consultative bodies as may be considered necessary by the Minister from time to time;

commission of inquiry

1971, c. 49

(*b*) appoint as a commission one or more persons, as he considers expedient, to inquire into and report upon any school matter, and such commission has the powers of a commission under Part II of *The Public Inquiries Act, 1971*, which Part applies to such inquiry as if it were an inquiry under that Act;

secure legal opinion

(*c*) submit a case on any question arising under this Act to a judge of the Supreme Court for his opinion and decision or, by leave of a judge of the Supreme Court, to the Court of Appeal for its opinion and decision;

(*d*) determine all disputes and complaints laid before him, the determination of which is not otherwise provided for by law, and all appeals made to him from a decision of a principal, supervisory officer or other school officer, where provision is, by any Act or regulation, made for an appeal to the Minister, and where the Minister makes a determination of a dispute, complaint or appeal, such determination shall be binding upon the parties to the dispute or complaint and upon the board affected by the determination of any such appeal. R.S.O. 1970, c. 111, s. 10 (1); 1972, c. 73, s. 3. determine disputes and complaints

10.—(1) Subject to the approval of the Lieutenant Governor in Council, the Minister may make regulations in respect of schools or classes established under this Act, or any predecessor of this Act, and with respect to all other schools supported in whole or in part by public money, Regulations

1. for the establishment, organization, administration and government thereof; general

2. governing the admission of pupils; admit pupils

3. prescribing the manner in which records in respect of pupils of elementary and secondary schools shall be established and maintained, including the forms to be used therefor and the type of information that shall be kept and recorded, and providing for the retention, transfer and disposal of such records; pupil records

4. providing for the disposition of records established prior to the 1st day of September, 1972, in respect of pupils; disposition of present pupil records

5. governing the establishment, organization and administration of special education programs, facilities and services for pupils; special education

6. defining and governing evening classes; evening classes

7. requiring boards to purchase books for the use of pupils; purchase books

8. prescribing the accommodation and equipment of buildings and the arrangement of premises; accommodation and equipment

9. defining and governing programs of recreation, camping, physical education and adult education; recreation programs

certificates and letters of standing

10. governing the granting, suspending and cancelling of permanent, temporary, interim, special and other certificates of qualification, and letters of standing;

letter of permission

11. governing the granting to a board of a letter of permission and a temporary letter of approval and providing for the withdrawal of such letters;

teacher's contract

12. prescribing the form of contract that shall be used for every contract entered into between a board and a permanent teacher or a probationary teacher for the services of the teacher, and prescribing in the form of contract the terms and conditions of the contract;

schools on Crown lands

13. governing the establishment and operation of public and secondary schools on lands held by the Crown in right of Canada or Ontario or by an agency thereof, or on other lands that are exempt from taxation for school purposes, and providing for the payment of moneys to assist in the cost of establishment and maintenance of such schools;

pupils on Crown lands, wards of children's aid society and in approved homes, etc.

14. governing the payment of the cost of education at elementary and secondary schools of pupils who,

i. reside in the territorial districts, or on lands held by the Crown in right of Canada or Ontario or by an agency thereof, or on other lands that are exempt from taxation for school purposes,

ii. are wards of or in the care of a children's aid society, or

R.S.O. 1970, cc. 270, 369

iii. are placed in an approved home as defined in *The Mental Hospitals Act* or a detention and observation home established under *The Provincial Courts Act*;

board, lodging and transportation of pupils

15. providing for assistance in the payment of board, lodging and transportation costs of elementary and secondary school pupils;

fees of examiners

16. prescribing the fees to be paid to presiding officers and examiners in connection with examinations and by whom and in what manner such fees and other expenses in connection with such examinations shall be borne and paid;

17. governing the provision of religious exercises and religious education in public and secondary schools and providing for the exemption of pupils from participating in such exercises and education and of a teacher from teaching, and a public school board or a secondary school board from providing, religious education in any school or class; — religious exercises and education

18. prescribing the language or languages in which any subject or subjects shall be taught in any year of the primary, junior, intermediate or senior division; — language of instruction

19. providing for and governing the exchange of teachers between Ontario and other parts of Canada and between Ontario and other jurisdictions; — exchange teachers

20. governing school libraries; — school libraries

21. listing the textbooks that are selected and approved by the Minister for use in schools; — textbooks

22. respecting observation and practice teaching by student teachers; — practice teaching

23. prescribing the powers, duties and qualifications, and governing the appointment of, teachers, supervisors, directors, supervisory officers, heads of departments, principals, superintendents, bursars, matrons, school attendance counsellors and other officials; — powers and duties of teachers, etc.

24. prescribing the duties of pupils; — pupils

25. governing the operation of schools for trainable retarded children; — schools for trainable retarded children

26. prescribing the qualifications and experience required for the purpose of qualifying a person to teach; — qualification to teach

27. prescribing forms and providing for their use; — forms

28. governing the transportation of pupils; — transportation

29. regulating the practice and procedure to be followed at any hearing provided for by or under this Act; — practice and procedure

30. governing the assignment by a board of duties to directors of education and other supervisory officers and prescribing the procedures in respect thereof, and defining any word or expression used in such regulation; — duties of supervisory officers

suspension or dismissal of supervisory officers

31. prescribing the practices and procedures to be followed by a board in the case of suspension or dismissal of a director of education or other supervisory officer. R.S.O. 1970, c. 111, s. 12 (1); 1971, c. 89, s. 3 (1, 2); 1972, c. 73, s. 4 (1-3), *amended*.

Student-Aid loan contracts

(2) Every contract executed by a person under twenty-one years of age that provides for the repayment of a loan made to such person out of the Provincial Student-Aid Loan Fund is binding upon such person and enforceable against him in the same manner and to the same extent as if he were over twenty-one years of age at the time he executed the contract. R.S.O. 1970, c. 111, s. 12 (2).

Regulations, grants

(3) Subject to the approval of the Lieutenant Governor in Council, the Minister may make regulations,

(*a*) providing for the apportionment and distribution of moneys appropriated or raised by the Legislature for educational purposes;

(*b*) prescribing the conditions governing the payment of legislative grants;

(*c*) for the purposes of legislative grants,

(i) defining any word or expression,

(ii) requiring the approval of the Minister to any amount of money or rate determined by the application of any word or expression defined,

(iii) prescribing the portions of any expenditure to which such grants apply, and

(iv) respecting the application of any part of such grants; R.S.O. 1970, c. 111, s. 12 (3) (*a-c*); 1972, c. 73, s. 4 (4), *amended*.

(*d*) providing an assessment equalization factor,

(i) for each municipality, including, for public and secondary school purposes, any part of territory without municipal organization that is deemed to be attached thereto for such purposes and, for public school purposes, any part of territory without municipal organization that is deemed to be annexed thereto for public school purposes,

(ii) for each part of territory without municipal organization that is deemed to be a district municipality for the purposes of Part III,

(iii) for each part of territory without municipal organization that is deemed to be a district municipality for the purposes of Part IV,

(iv) for each public school section that comprises only territory without municipal organization, and

(v) for each separate school zone that comprises only territory without municipal organization,

and may determine the assessment roll to which each such factor applies;

(*e*) prescribing the method of calculating the amount of the fee receivable by a board in respect of elementary or secondary school pupils or any class or group thereof, where the board provides education for one or more pupils in respect of whom a fee is payable under this Act, and defining any word or expression used in such regulation. *New*.

Application to previous year

(4) A regulation made in any year under subsection 3 may be made to apply in its operation to that year, to a previous year, or to both. 1972, c. 73, s. 4 (5), *amended*.

Estimates and expenditures

(5) Subject to the approval of the Lieutenant Governor in Council and to section 131, the Minister may make regulations governing estimates that a board is required to prepare and adopt and expenditures that may be made by a board for any purpose. R.S.O. 1970, c. 111, s. 12 (3) (*d*).

School year, terms and holidays

(6) Subject to the approval of the Lieutenant Governor in Council, the Minister may make regulations,

(*a*) prescribing and governing the school year, school terms and school holidays;

(*b*) authorizing a board to vary one or more school terms or school holidays as designated by the regulations; and

(*c*) permitting a board to designate, and to implement with the prior approval of the Minister, a school year, school terms and school holidays for one or more schools under its jurisdiction that are different from those prescribed by the regulations.

Exceptions: compulsory attendance

(7) Subject to the approval of the Lieutenant Governor in Council, the Minister may make regulations prescribing the conditions under which, and establishing the procedures by which, a child who is otherwise required to attend school under Part II and who has attained the age of fourteen years may be excused from attendance at school or required to attend school only part-time. *New*.

Regulations

(8) Subject to the approval of the Lieutenant Governor in Council, the Minister may make regulations,

fee for transcripts

(*a*) prescribing the fee to be paid to the Ministry for a transcript of standing obtained in Ontario by a pupil;

fee for certificates and letters of standing

(*b*) prescribing the fee to be paid to the Ministry for duplicates of certificates of qualification and letters of standing;

fee for statement of standing

(*c*) prescribing the fee to be paid to the Ministry by a teacher for the preparation at his request of a statement of standing obtained, or a description of courses completed, at a teacher training institution in Ontario, and the forwarding thereof to a certification authority outside Ontario or to an educational institution;

fees for evaluations

(*d*) prescribing the conditions under which fees are to be paid to the Ministry for the evaluation of academic certificates, transcripts and other documents of educational standing obtained outside Ontario, and the amounts of such fees;

fees for duplicates of certificates

(*e*) prescribing the fees to be paid for duplicates of diplomas and certificates granted to pupils;

fees for courses

(*f*) prescribing the fees to be paid for courses provided by the Ministry for teachers, principals and supervisory officers;

admission to teachers' college

(*g*) prescribing the terms and conditions upon which students may be admitted to a teachers' college, remain therein and be dismissed therefrom;

tuition fee teachers' college

(*h*) requiring the payment of a tuition fee by students attending a teachers' college and fixing the amount and manner of payment thereof. 1972, c. 73, s. 4 (3); 1973, c. 44, s. 4 (1), *amended*.

Metropolitan Toronto School Board

(9) A regulation made under this section may be made to apply to The Metropolitan Toronto School Board. 1972, c. 73, s. 4 (6).

Agreements with Canada re: physical fitness

11.—(1) The Crown in right of Ontario, represented by the Minister, with the approval of the Lieutenant Governor in Council, may make agreements with the Crown in right of Canada, represented by the Minister of National Health and Welfare of Canada respecting physical fitness, and the Minister may authorize a board to provide training in physical fitness.

pupils at Indian schools

R.S.C. 1970, c. I-6

(2) The Crown in right of Ontario, represented by the Minister, may make agreements with the Crown in right of Canada, represented by the Minister charged with the administration of the *Indian Act* (Canada), for the admission of pupils, other than Indians as defined in that Act, to schools for Indians operated under that Act.

(3) The Crown in right of Ontario, represented by the Minister, may make agreements with the Crown in right of Canada, represented by the Minister of Manpower and Immigration, respecting the establishment, awarding and payment of bursaries and scholarships to students eligible therefor under the regulations. R.S.O. 1970, c. 111, s. 13, *amended*. bursaries and scholarships

12.—(1) The Ontario School for the Deaf for the education and instruction of the deaf and partially deaf is continued under the administration of the Minister. Continuation of school for deaf

(2) The Ontario School for the Blind for the education and instruction of the blind and partially blind is continued under the administration of the Minister. School for blind

(3) Subject to the approval of the Lieutenant Governor in Council, the Minister may establish, maintain and operate one or more additional schools for the deaf or schools for the blind. Additional schools

(4) Subject to the approval of the Lieutenant Governor in Council, the Minister may, in addition to his powers under section 10, make regulations with respect to such schools for the deaf or blind, Regulations for schools for the deaf or blind

(*a*) prescribing the terms and conditions upon which pupils may,

(i) be admitted to, and remain in, a school,

(ii) reside in homes approved by a superintendent, and

(iii) be discharged from a school;

(*b*) authorizing the Minister to appoint a committee to determine any question concerning the eligibility for admission of an applicant;

(*c*) prescribing the fees, if any, that shall be paid in respect of pupils of any class or classes thereof;

(*d*) authorizing the payment of part or all of the transportation costs of pupils whose parents or guardians reside in Ontario, and fixing the maximum amount that may be paid;

(*e*) authorizing a superintendent to establish rules in respect of pupils admitted to the school;

(*f*) authorizing a superintendent to specify the type and minimum amount of clothing that a parent or guardian shall provide for a pupil;

(*g*) requiring a parent or guardian to deposit a sum of money with the bursar of a school for the purpose of defraying the personal incidental expenses of a pupil, and fixing the amount of the deposit;

(*h*) authorizing a superintendent to dismiss a pupil and prescribing procedures in respect thereof;

(*i*) authorizing the Minister to provide training for, and certification of, teachers of the deaf and of the blind;

(*j*) designating the name of each school continued or established under this section.

Cost

(5) The cost of the establishment, maintenance and conduct of the said schools shall be payable out of moneys appropriated therefor by the Legislature. R.S.O. 1970, c. 111, s. 12, *amended*.

Teacher education

13.—(1) Subject to the approval of the Lieutenant Governor in Council, the Minister may,

(*a*) establish, maintain and conduct a college for the professional education of teachers, enter into an arrangement with a board for the use of any of its schools for practice teaching purposes and for the services of its teachers and establish a schedule of payments to boards, principals and teachers participating therein;

(*b*) enter into an agreement with a university, a college of a university or a college to provide for the professional education of teachers by the university or college, under such terms and conditions as the Minister and the university or college may agree upon.

Agreements re practice teaching, etc.

(2) Where a university, a college of a university or a college has entered into an agreement with the Minister under clause *b* of subsection 1, a board operating a public, separate or secondary school may permit one or more of its schools to be used for practice teaching purposes and may provide for the services of any of its teachers under such terms and conditions as may be agreed upon between the board and the university or college.

Cost of teacher education

(3) The cost of the establishment, maintenance and conduct of a college referred to in clause *a* of subsection 1 shall be payable out of moneys appropriated therefor by the Legislature.

(4) The cost of providing the professional education of teachers by a university, a college of a university or a college under an agreement referred to in clause *b* of subsection 1 shall be payable out of moneys appropriated therefor by the Legislature. 1972, c. 73, s. 6. Idem

14.—(1) The Minister may establish, maintain and conduct camps for leadership training. Leadership training camps

(2) The cost of the establishment, maintenance and conduct of leadership training camps shall be payable out of moneys appropriated therefor by the Legislature. R.S.O. 1970, c. 111, s. 19. Expenses

15.—(1) No private school shall be operated in Ontario unless notice of intention to operate the private school has been submitted in accordance with this section. Intention to operate private school

(2) Every private school shall submit annually to the Ministry on or before the 1st day of September a notice of intention to operate a private school. Idem

(3) A notice of intention to operate a private school shall be in such form and shall include such particulars as the Minister may require. Idem

(4) Every person concerned in the management of a private school that is operated in contravention of subsection 1 is guilty of an offence and on summary conviction is liable to a fine of not more than $25 for every day such school is so operated. Offence to operate private school without filing notice of intent to operate

(5) The principal, headmaster or person in charge of a private school shall make a return to the Ministry furnishing such statistical information regarding enrolment, staff, courses of study and other information as and when required by the Minister, and any such person who fails to make such return within sixty days of the request of the Minister is guilty of an offence and on summary conviction is liable to a fine of not more than $100. Return

(6) The Minister may direct one or more supervisory officers to inspect a private school, in which case each such supervisory officer may enter the school at all reasonable hours and conduct an inspection of the school and any records or documents relating thereto, and every person who prevents or obstructs or attempts to prevent or obstruct any such entry or inspection is guilty of an offence and on summary conviction is liable to a fine of not more than $200. R.S.O. 1970, c. 111, s. 20 (1-6). Inspection of school

Inspection on request

(7) The Minister may, on the request of any person operating a private school, provide for inspection of the school in respect of the standard of instruction in the subjects of the senior division leading to the secondary school graduation diploma and to the secondary school honour graduation diploma, and may determine and charge a fee for such inspection. 1972, c. 73, s. 7.

Inspection of teachers

(8) The Minister may, on the request of a person operating a private school or of a person in charge of a conservation authority school or field centre, provide for the inspection of a teacher in such school or centre who requires the recommendation of a supervisory officer for certification purposes. *New.*

Offence for false statement

(9) Every person who knowingly makes a false statement in a notice of intention to operate a private school or an information return under this section is guilty of an offence and on summary conviction is liable to a fine of not more than $200. R.S.O. 1970, c. 111, s. 20 (8).

Variation of scholarships and awards

R.S.O. 1970, c. 166

16.—(1) Where the educational object of a gift or bequest accepted by the Treasurer of Ontario under section 15 of *The Financial Administration Act* is the establishment of a scholarship or an award that is available to one or more students in an elementary or a secondary school or a teacher training institution and,

(*a*) the selection of the recipient of the scholarship or award is based upon an examination which is no longer given;

(*b*) the school or teachers' college at which attendance is required for eligibility is no longer operated;

(*c*) reference to a county or a board in the terms and conditions of the gift or bequest is no longer appropriate by reason of the establishment of a regional municipality or a divisional board of education; or

(*d*) the course or program of instruction specified in the terms and condition is no longer available, or is no longer available at the school or teachers' college,

the Lieutenant Governor in Council on the recommendation of the Minister may, from time to time, vary the terms and conditions of the gift or bequest in respect of the qualifications for eligibility for the scholarship or award so as to ensure that such scholarship or award will be granted or given under such terms and conditions as in the opinion of the Minister

most nearly approximate those of the original gift or bequest, and the Minister may delegate his powers under the original terms and conditions of such gift or bequest to a representative of the board, or the educational institution, granting the scholarship or making the award, pursuant to any variation in the terms and conditions of the gift or bequest made under this section.

Where award is repayable loan

(2) In the case of an award in the form of a repayable loan for which no person has made application for seven consecutive years, the Lieutenant Governor in Council, on the recommendation of the Minister and with the written consent of the person making the gift or the trustee of the person making the bequest, may capitalize the fund and any interest accrued thereon held by the Treasurer of Ontario, and may change the educational object of the gift or bequest to another object of an educational nature, in which case the provisions of subsection 1 shall apply *mutatis mutandis*. 1971, c. 89, s. 5.

PART II

SCHOOL ATTENDANCE

Interpretation

17. In sections 20, 22, 25, 27 and 29, "guardian", in addition to having the meaning ascribed in law, includes any person who has received into his home another person's child who is of compulsory school age and is resident with him or in his care or legal custody. R.S.O. 1970, c. 424, s. 2.

Closing of school or class by board

18. A board may close or authorize the closing of a school or class for a temporary period where such closing appears unavoidable because of,

(*a*) failure of transportation arrangements; or

(*b*) inclement weather, fire, flood, the breakdown of the school heating plant, or a similar emergency. 1973, c. 92, s. 3.

Closing of schools on civic holiday

19. Where the head of the council of a municipality in which a school is situate proclaims a school day as a civic holiday for the municipality, the board may, by resolution, close any of the schools under its jurisdiction on such day. 1972, c. 77, s. 2 (3).

Compulsory attendance

20.—(1) Unless excused under this section,

(*a*) every child who attains the age of six years on or before the first school day in September in any year shall attend an elementary or secondary school on

every school day from the first school day in September in that year until he attains the age of sixteen years; and

(*b*) every child who attains the age of six years after the first school day in September in any year shall attend an elementary or secondary school on every school day from the first school day in September in the next succeeding year until the last school day in June in the year in which he attains the age of sixteen years. R.S.O. 1970, c. 424, s. 6 (1).

When attendance excused

(2) A child is excused from attendance at school if,

(*a*) he is receiving satisfactory instruction at home or elsewhere;

(*b*) he is unable to attend school by reason of sickness or other unavoidable cause;

(*c*) transportation is not provided by a board for the child and there is no school that he has a right to attend situated,

(i) within one mile from his residence measured by the nearest road if he has not attained the age of seven years on or before the first school day in September in the year in question, or

(ii) within two miles from his residence measured by the nearest road if he has attained the age of seven years but not the age of ten years on or before the first school day in September in the year in question, or

(iii) within three miles from his residence measured by the nearest road if he has attained the age of ten years on or before the first school day in September in the year in question;

(*d*) he has obtained a secondary school graduation diploma or has completed a course that gives him equivalent standing;

(*e*) he is absent from school for the purpose of receiving instruction in music and the period of absence does not exceed one-half day in any week;

(*f*) he is suspended, expelled or excluded from attendance at school under any Act or under the regulations;

(*g*) he is absent on a day regarded as a holy day by the church or religious denomination to which he belongs; or

(*h*) he is absent or excused as authorized under this Act and the regulations. R.S.O. 1970, c. 424, s. 6 (2); 1972, c. 77, s. 3.

Blind, deaf or mentally handicapped children

(3) The fact that a child is blind, deaf or mentally handicapped is not of itself an unavoidable cause under clause *b* of subsection 2 if the child is eligible for admission to the Ontario School for the Blind, an Ontario School for the Deaf or a school or class for trainable retarded children.

Child under compulsory age

(4) Where a child under compulsory school age has been enrolled as a pupil in an elementary school, this section applies during the period for which the child is enrolled as if he were of compulsory school age.

Duty of parent, etc.

(5) The parent or guardian of a child who is required to attend school under this section shall cause the child to attend school as required by this section.

Separate school supporters

(6) Nothing in this section requires the child of a Roman Catholic separate school supporter to attend a public school or a Protestant separate school, or requires the child of a public school supporter to attend a Roman Catholic separate school. R.S.O. 1970, c. 424, s. 6 (3-6), *amended*.

Where school year varied

21. Where a school year approved by the Minister does not commence on the day following Labour Day, references to the first school day in September and the last school day in June in section 20 shall be read as the first school day in the school year and the last school day in the school year respectively for the purpose of compulsory attendance of pupils of the school or schools or parts thereof to which the school year applies. 1973, c. 92, s. 5.

Suspension of pupil

22.—(1) A principal may suspend a pupil for a fixed period, not in excess of a period determined by the board, because of persistent truancy, persistent opposition to authority, habitual neglect of duty, the wilful destruction of school property, the use of profane or improper language, or conduct injurious to the moral tone of the school or to the physical or mental wellbeing of others in the school and, where a pupil has been suspended, the principal shall notify forthwith in writing the pupil, the parent or guardian of the pupil, the board, the appropriate school attendance counsellor and the appropriate supervisory officer of the suspension, the reasons therefor and the right of appeal under subsection 2.

Appeal against suspension

(2) The parent or guardian of a pupil who has been suspended or the pupil, where he is an adult, may, within seven days of the commencement of the suspension, appeal to the board against the suspension and the board, after hearing the appeal or where no appeal is made, may remove, confirm or modify the suspension and, where the board considers it appropriate, may order that any record of the suspension be expunged. R.S.O. 1970, c. 424, s. 21 (2) (*l*), *amended*.

Expulsion of pupil

(3) A board may expel a pupil from its schools on the ground that his conduct is so refractory that his presence is injurious to other pupils where,

(*a*) the principal and the appropriate supervisory officer so recommend;

(*b*) the pupil and his parent or guardian have been notified in writing of,

(i) the recommendation of the principal and the supervisory officer, and

(ii) the right of the pupil where he is an adult and otherwise of his parent or guardian to make representations at a hearing to be conducted by the board; and

(*c*) such hearing has been conducted. R.S.O. 1970, c. 424, s. 34, par. 24; 1971, c. 90, s. 5 (3).

Parties to hearing

(4) The parties to a hearing under this section shall be the parent or guardian of the pupil or the pupil, where he is an adult, the principal of the school that the pupil attends and, in the case of an expulsion, the appropriate supervisory officer.

Readmission of pupil

(5) A board may at its discretion readmit to school a pupil who has been expelled. *New*.

Provincial School Attendance Counsellor

23.—(1) The Lieutenant Governor in Council may appoint an officer, to be known as the Provincial School Attendance Counsellor, who shall, under the direction of the Minister, superintend and direct the enforcement of compulsory school attendance. R.S.O. 1970, c. 424, s. 7 (1).

Inquiry by Provincial Counsellor

(2) Where the parent or guardian of a child considers that the child is excused from attendance at school under subsection 2 of section 20, and the appropriate school attendance counsellor or the Provincial School Attendance Counsellor is of the opinion that the child should not be excused from

attendance, the Provincial School Attendance Counsellor shall direct that an inquiry be made as to the validity of the reason or excuse for non-attendance and the other relevant circumstances, and for such purpose shall appoint one or more persons who are not employees of the board that operates the school that the child has the right to attend to conduct a hearing and to report to him the result of the inquiry and may, by order in writing signed by him, direct that the child,

(*a*) be excused from attendance at school; or

(*b*) attend school,

and a copy of the order shall be delivered to the board and to the parent or guardian of the child. 1972, c. 77, s. 4.

Powers of Provincial Counsellor

(3) The Provincial School Attendance Counsellor has all the powers of a school attendance counsellor and may exercise such powers anywhere in Ontario. R.S.O. 1970, c. 424, s. 7 (4).

Appointment of school attendance counsellors

24.—(1) Every board shall appoint one or more school attendance counsellors.

Idem

(2) Two or more boards may appoint the same school attendance counsellor or counsellors.

Vacancies

(3) Where the office of a school attendance counsellor becomes vacant, it shall be filled forthwith by the board.

Notice of appointment

(4) Notice of the appointment of a school attendance counsellor shall be given in writing by the board to the Provincial School Attendance Counsellor and to the supervisory officers concerned. R.S.O. 1970, c. 424, s. 8.

Jurisdiction and responsibility of school attendance counsellor

(5) A school attendance counsellor appointed by a board has jurisdiction and is responsible for the enforcement of compulsory school attendance in respect of every child who is required to attend school and who,

(*a*) is qualified to be a resident pupil of the board; or

(*b*) is or has been enrolled during the current school year in a school operated by the board, except a child who is under the jurisdiction of a person appointed under section 119 of the *Indian Act* (Canada). R.S.O. 1970, c. 424, s. 9, *amended*.

R.S.C. 1970, c. I-6

Powers of counsellors

25.—(1) Where a school attendance counsellor has reasonable and probable grounds for believing that a child is illegally absent from school, he may, at the written request of the parent or guardian of the child or of the principal of the

school that the child is required to attend, take the child to his parent or guardian or to the school from which he is absent provided that, if exception is taken to his entering a dwelling place, he shall not enter therein without a warrant. 1972, c. 77, s. 5 (1).

Reports

(2) A school attendance counsellor shall report to the board that appointed him as required by the board. R.S.O. 1970, c. 424, s. 10 (2); 1972, c. 77, s. 5 (2).

To act under appropriate supervisory officer and provincial counsellor

(3) A school attendance counsellor is responsible to the appropriate supervisory officer, and shall carry out the instructions and directions of the Provincial School Attendance Counsellor. R.S.O. 1970, c. 424, s. 10 (3).

Inquiry by counsellor and notice

(4) A school attendance counsellor shall inquire into every case of failure to attend school within his knowledge or when requested so to do by the appropriate supervisory officer or the principal of a school or a ratepayer, and shall give written warning of the consequences of such failure to the parent or guardian of a child who is not attending school as required, and shall also give written notice to the parent or guardian to cause the child to attend school forthwith, and shall advise the parent or guardian in writing of the provisions of subsection 2 of section 23. R.S.O. 1970, c. 424, s. 10 (4); 1972, c. 77, s. 5 (3).

Census

26. A board may make or obtain a complete census of all persons in the area in which the board has jurisdiction who have not attained the age of twenty-one years. R.S.O. 1970, c. 424, s. 11; 1972, c. 77, s. 6.

Reports and information

27.—(1) The principal of every elementary and secondary school shall,

(*a*) report to the appropriate school attendance counsellor and supervisory officer the names, ages and residences of all pupils of compulsory school age who have not attended school as required;

(*b*) furnish the school attendance counsellor with such other information as the counsellor requires for the enforcement of compulsory school attendance; and

(*c*) report in writing to the school attendance counsellor every case of expulsion and readmission of a pupil. R.S.O. 1970, c. 424, s. 12 (1); 1973, c. 92, s. 6.

Where no school attendance counsellor

(2) Where a child of compulsory school age has not attended school as required and there is no school attendance counsellor having jurisdiction in respect of the child, the appropriate

supervisory officer shall notify the parent or guardian of the child of the requirements of section 20. R.S.O. 1970, c. 424, s. 12 (2).

Provincial counsellor as trustee

28. Where it appears to the Minister that the board of a district school area is not providing accommodation or instruction for its resident pupils either in schools operated by the board or under an agreement with another board in schools operated by such other board, has neglected or failed to raise the necessary funds for the provision of such accommodation and instruction or has in other respects failed to comply with this Act and the regulations, or that the election of members of the board has been neglected and no regular board is in existence, the Minister may authorize and direct the Provincial School Attendance Counsellor to do all things and exercise all powers that may be necessary for the provision and maintenance of accommodation and instruction for the resident pupils of the board including the erection of school buildings and the conduct of schools and for the levying of all sums of money required for the purposes of the board, and generally whatever may be required for the purpose of establishing, maintaining and conducting schools in accordance with this Act and the regulations, and thereupon the Provincial School Attendance Counsellor has, for such period as authorized by the Minister, all the authority and powers vested in, and may, during such period, perform the duties of, the board. R.S.O. 1970, c. 424, s. 13, *amended*.

Liability of parent or guardian

29.—(1) A parent or guardian of a child of compulsory school age who neglects or refuses to cause the child to attend school is, unless the child is legally excused from attendance, guilty of an offence and on summary conviction is liable to a fine of not more than $100.

Bond for attendance

(2) The provincial judge may, instead of imposing a fine, require a person convicted of an offence under subsection 1 to submit to the Treasurer of Ontario a personal bond, in a form prescribed by the provincial judge, in the penal sum of $200 with one or more sureties as required, conditioned that the person shall cause the child to attend school as required by this Part, and upon breach of the condition the bond is forfeit to the Crown. R.S.O. 1970, c. 424, s. 14 (1, 2), *amended*.

Employment during school hours

(3) A person who employs during school hours a child who is required to attend school under section 20 is guilty of an offence and on summary conviction is liable to a fine of not more than $100. R.S.O. 1970, c. 424, s. 14 (3); 1972, c. 77, s. 7 (1), *amended*.

Offences by corporations

(4) Subsections 1 and 3 apply, *mutatis mutandis*, to a corporation and, in addition, every director and officer of the corporation who authorizes, permits or acquiesces in the

contravention is guilty of an offence and on summary conviction is liable to the same penalty as the corporation. R.S.O. 1970, c. 424, s. 14 (4).

Habitually absent from school

(5) A child who is required by law to attend school and who refuses to attend or who is habitually absent from school is guilty of an offence and on summary conviction is liable to the penalties provided for children adjudged to be juvenile delinquents under the *Juvenile Delinquents Act* (Canada), and the child and his parent or guardian may be summoned to appear before a provincial judge in the Provincial Court (Family Division), and the provincial judge has the same powers to deal with such child and his parent or guardian, including the imposition and payment of fines, as he has with respect to a juvenile delinquent and his parent or guardian under the *Juvenile Delinquents Act* (Canada), and subsection 2 of section 231 applies in any proceeding under this section. R.S.O. 1970, c. 424, s. 14 (5); 1972, c. 77, s. 7 (2), *amended*.

R.S.C. 1970, c. J-3

Proceedings under subs. 5

(6) Proceedings in respect of offences under subsection 5 shall be proceeded with only in accordance with such subsection. R.S.O. 1970, c. 424, s. 14 (6).

Reference to provincial counsellor for inquiry

(7) Where, in proceedings under this section, it appears to a provincial judge that the child may have been excused from attendance at school under subsection 2 of section 20, the provincial judge may refer the matter to the Provincial School Attendance Counsellor who shall direct that an inquiry shall be made as provided in subsection 2 of section 23 which subsection shall apply *mutatis mutandis* except that the Provincial School Attendance Counsellor shall, in lieu of making an order, submit a report to the provincial judge. 1972, c. 77, s. 7 (3).

Proceedings to be taken by attendance counsellors

30.—(1) Prosecutions under section 29 shall be instituted by the school attendance counsellor concerned and prosecutions under subsection 1 of section 29 shall be instituted in the Provincial Court (Family Division).

Certificate of principal as evidence

(2) In prosecutions under section 29, a certificate as to the attendance or non-attendance at school of any child, signed or purporting to be signed by the principal of the school, is *prima facie* evidence of the facts stated therein without any proof of the signature or appointment of the principal.

Proof of age

(3) Where a person is charged under section 29 in respect of a child who is alleged to be of compulsory school age and the child appears to the provincial judge to be of compulsory school age, the child shall, for the purposes of such prosecution, be deemed to be of compulsory school age unless the contrary is proved. R.S.O. 1970, c. 424, s. 15.

(4) An order made under subsection 2 of section 23 shall be admitted in evidence in a prosecution only where the prosecution is in respect of the school year for which the order was made. 1972, c. 77, s. 8.

Order re school attendance

31. A person has the right, without payment of a fee, to attend a school in a school section, separate school zone or secondary school district, as the case may be, in which he is qualified to be a resident pupil. R.S.O. 1970, c. 425, s. 62 (1), *amended*.

Resident pupil right to attend school

32.—(1) Subject to sections 34, 35 and 42, a person who attains the age of six years in any year is, after the 1st day of September in such year, qualified to be a resident pupil in respect of a school section until the last school day in June in the year in which he attains the age of twenty-one years, if,

Resident pupil public school qualification

(*a*) he resides in the school section in which his parent or guardian who is not a separate school supporter resides; or

(*b*) he or his parent or guardian is assessed for public school purposes in the school section,

(i) as an owner, or

(ii) for business assessment, or

(iii) as an owner and for business assessment,

for an amount that, when adjusted by the latest assessment equalization factor applicable thereto that is provided by the Minister, is not less than the quotient obtained by dividing the total equalized assessment, for the year next preceding, of property rateable for public school purposes in that school section, by the average daily enrolment of pupils resident in that school section in such year. R.S.O. 1970, c. 385, s. 4 (1); 1971, c. 69, s. 1 (3); 1973, c. 37, s. 2, *amended*.

(2) Subject to sections 34, 35 and 42, a person who attains the age of six years in any year is, after the 1st day of September in such year, qualified to be a resident pupil in respect of a separate school zone until the last school day in June in the year in which he attains the age of twenty-one years, if,

Resident pupil separate school qualification

(*a*) he resides in the separate school zone in which his parent or guardian who is a separate school supporter resides; or

(*b*) he or his parent or guardian is assessed for separate school purposes in the zone,

(i) as an owner, or

(ii) for business assessment, or

(iii) as an owner and for business assessment,

for an amount that, when adjusted by the latest assessment equalization factor applicable thereto that is provided by the Minister, is not less than the quotient obtained by dividing the total equalized assessment, for the year next preceding, of property rateable for separate school purposes in that zone, by the average daily enrolment of pupils resident in that zone in such year. R.S.O. 1970, c. 430, s. 25 (1), *part*; 1971, c. 70, s. 1 (3); 1972, c. 137, s. 1, *amended*.

Evidence as to right to attend

(3) It is the responsibility of the parent or guardian to submit evidence that the child has a right to attend an elementary school, including proof of age. R.S.O. 1970, c. 385, s. 4 (3); R.S.O. 1970, c. 430, s. 25 (3).

Resident pupil, elementary

(4) A person who is qualified to be a resident pupil in respect of a school section or a separate school zone is a resident pupil if he enrols in a school operated by the board of the school section or separate school zone, as the case may be, or in a school operated by another board to which the board of such school section or separate school zone pays fees on his behalf. *New*.

Kindergarten

33.—(1) Where a board operates a kindergarten in a school, a child who is otherwise qualified and resides within the attendance area of that school may become a resident pupil at an age one year lower than that referred to in section 32.

Junior kindergarten

(2) Where a board operates a junior kindergarten in a school, a child who is otherwise qualified and resides within the attendance area of that school may become a resident pupil at an age two years lower than that referred to in section 32. R.S.O. 1970, c. 385, s. 4 (4, 5); R.S.O. 1970, c. 430, s. 25 (4, 5).

Beginners class

(3) A board may provide a class or classes for children to enter school for the first time on or after the first school day in January and, where the board so provides, a child whose birthday is on or after the 1st day of January and before the 1st day of July, who resides in an area determined by the board and who is eligible to be admitted to an elementary school or kindergarten, as the case may be, on the first school day in the following September, may become a resident pupil in respect of such class. 1973, c. 37, s. 1, *amended*.

34.—(1) A person is not qualified to be a resident pupil in respect of an elementary school if he is unable by reason of mental or physical handicap to profit by instruction in an elementary school. R.S.O. 1970, c. 385, s. 4 (1) (*b*); R.S.O. 1970, c. 430, s. 25 (1), *part*. When person not resident pupil

(2) The inability of a pupil to profit by instruction in an elementary school because of a mental or physical handicap shall be determined by a committee established by the board in accordance with this section. R.S.O. 1970, c. 385, s. 4 (2); R.S.O. 1970, c. 430, s. 25 (2), *amended*. Inability to profit by instruction

(3) Where the principal of an elementary school considers that a pupil who attends his school is unable by reason of a mental or physical handicap to profit by instruction in an elementary school, or where the parents or guardian of a pupil consider that the pupil is unable to profit by instruction by reason of a mental or physical handicap, the principal shall refer the matter to the appropriate supervisory officer who shall refer the matter to the board, and the board shall appoint a committee of three persons consisting of a supervisory officer and a principal, neither of whom is the supervisory officer or principal to whom the matter has been previously referred, and, Idem

(*a*) a legally qualified medical practitioner where the pupil allegedly has a physical handicap; or

(*b*) a legally qualified psychiatrist where the pupil allegedly has a mental handicap or a multiple handicap involving both mental and physical defect.

(4) The committee referred to in subsection 3 shall inquire into the alleged inability of the pupil to profit by instruction and the mental or physical condition of the pupil, determine whether the pupil can profit by instruction and make a written report to the board of its determination and, for the purposes of its inquiry, report and determination, the committee shall study all existing reports in respect of the pupil, hear the parents or guardian of the pupil and any other person who may be able to contribute information bearing upon the matter and may, with the consent of the parents or guardian of the pupil, obtain and consider in respect of the pupil, Inquiry by committee

(*a*) in the case of alleged mental handicap, a report of an intellectual assessment conducted by a person considered by the committee to be competent for the purpose; and

(*b*) in the case of alleged physical handicap, a report of a medical examination conducted by a legally qualified medical practitioner,

and any costs incurred in respect of such assessment or examination, or in respect of the obtaining of other evidence required by the committee, shall be paid by the board.

Review

(5) Where the parent or guardian of a person determined under this section to be unable to profit by instruction in an elementary school,

(*a*) believes that by reason of improvement in the mental or physical condition of the person or other cause the person has become able to profit by such instruction; and

(*b*) furnishes to a supervisory officer of the board in whose jurisdiction the person resides evidence or information to establish his belief,

the board shall appoint a committee constituted in accordance with subsection 3 which shall review the determination previously made under this section and confirm or alter such determination, and for such purpose the committee has the powers and duties of a committee under subsection 4, which subsection applies *mutatis mutandis*.

Notification of Minister re exclusion

(6) Where a person is excluded from an elementary school under this section, the board shall forthwith notify the Minister. *New*.

Admission where pupil moves into residence not assessed in accordance with his school support

35. Where a child who would otherwise have the right to attend school in a school section or separate school zone moves with his parent or guardian,

(*a*) who is not a separate school supporter, into a residence that is assessed to the support of separate schools; or

(*b*) who is a separate school supporter, into a residence that is assessed to the support of public schools,

and the latest date upon which the assessment of the residence may be changed from,

(*c*) separate to public school support; or

(*d*) public to separate school support,

has passed, upon the filing of a notice of change of support for the following year with the clerk of the municipality, the child shall be admitted, without the payment of a fee, to a public or separate school, as the case may be, that will be supported by the assessment of the residence on the effective date of the change of school support. R.S.O. 1970, c. 385, s. 5 (2); R.S.O. 1970, c. 430, s. 25 (11), *amended*.

36. Where a resident pupil of a school section or separate school zone resides,

Resident pupil's right to attend more accessible school in adjoining school section or separate school zone

(*a*) more than two miles by the shortest distance by road from the school that the pupil is required to attend; or

(*b*) more than one-half mile by the shortest distance by road from any point from which transportation is provided to the school that the pupil is required to attend; and

(*c*) nearer by the shortest distance by road to another public school in another school section in the case of a public school pupil, or to another separate school in another separate school zone in the case of a separate school pupil, than to the school that the pupil is required to attend,

the pupil shall be admitted to the nearer public school or the nearer separate school, as the case may be, referred to in clause *c*, where the appropriate supervisory officer for the school section or separate school zone, as the case may be, in which such school is situate, certifies that there is sufficient accommodation for the pupil in such school, and where the pupil is admitted to such school, the board of the school section or separate school zone of which he is a resident pupil shall pay in respect of the pupil a fee calculated in accordance with the regulations. R.S.O. 1970, c. 385, s. 5 (4); R.S.O. 1970, c. 430, s. 25 (14), *amended*.

37.—(1) A person is qualified to be a resident pupil in respect of a secondary school district if,

Resident pupil secondary school qualification

(*a*) he and his parent or guardian reside in the secondary school district; or

(*b*) he or his parent or guardian is assessed in the secondary school district,

(i) as an owner, or

(ii) for business assessment, or

(iii) as an owner and for business assessment,

for an amount that, when adjusted by the latest assessment equalization factor applicable thereto that is provided by the Minister, is not less than the quotient obtained by dividing the total equalized assessment, for the year next preceding, of property rateable for secondary school purposes in that second-

ary school district, by three times the average daily enrolment of pupils resident in that secondary school district in such year; or

(*c*) he resides in the secondary school district and is the owner or tenant of property therein that is separately assessed; or

(*d*) he is over eighteen years of age and has resided in the secondary school district for the twelve months immediately before his admission to a secondary school in the secondary school district or to a secondary school operated by another secondary school board to which the board of such secondary school district pays fees on his behalf. R.S.O. 1970, c. 425, s. 1, *part*; 1971, c. 68, s. 1; 1972, c. 75, s. 1, *amended*.

Resident pupil, secondary

(2) A person who is qualified to be a resident pupil in respect of a secondary school district is a resident pupil if he enrols in a secondary school operated by the board of the secondary school district or in a secondary school operated by another secondary school board to which the board of such secondary school district pays fees on his behalf. *New*.

Trainable retarded child

(3) Subsections 1 and 2 apply *mutatis mutandis* to a trainable retarded child in respect of a school division.

Metropolitan Area R.S.O. 1970, c. 295

(4) In subsection 3, school division includes the Metropolitan Area as defined in *The Municipality of Metropolitan Toronto Act*. *New*.

Admission of adult resident who is not a resident pupil

(5) Notwithstanding any general or special Act, a person who resides in a secondary school district and who, except as to residence, is qualified to be a resident pupil in another secondary school district shall be admitted, without the payment of a fee, to a secondary school operated by the board of the secondary school district in which he resides if,

(*a*) the person has attained the age of eighteen years and has been promoted or transferred to a secondary school; and

(*b*) the appropriate supervisory officer certifies that there is adequate accommodation in the secondary school. 1972, c. 75, s. 17.

Limitation on right to attend without payment of fee

(6) Notwithstanding section 31, where a pupil,

(*a*) has completed elementary school; and

(*b*) has attended one or more secondary schools for a total of seven or more years,

the board of the secondary school that he attends may charge a fee calculated in accordance with the regulations. R.S.O. 1970, c. 425, s. 63 (5), *amended*.

38.—(1) Subject to subsections 2 and 3, a resident pupil of a secondary school district has the right to attend any secondary school, Resident pupil

(*a*) that is more accessible to the pupil than any secondary school in the secondary school district of which he is a resident pupil;

(*b*) to take, for the purpose of obtaining the secondary school honour graduation diploma, a subject or subjects not available in the secondary school district of which he is a resident pupil but required by the pupil for admission to any university or teacher-training course or for entry into any trade, profession or calling;

(*c*) to take a program of study that includes the subject of French for French-speaking pupils in the intermediate or senior division and that is not available in the secondary school district of which he is a resident pupil, where such program of study is required by the pupil for admission to any university or teacher-training course or for entry into any trade, profession or calling; or

(*d*) to take a program in a French-language school or class if a French-language school or class is not provided by the board of the secondary school district of which he is a resident pupil. R.S.O. 1970, c. 425, s. 62 (2); 1972, c. 75, s. 16 (1).

(2) Subsection 1 applies to a resident pupil of a secondary school district only if the appropriate supervisory officer certifies that there is adequate accommodation for the pupil in the school. R.S.O. 1970, c. 425, s. 62 (4). Restrictions

(3) Clauses *b*, *c* and *d* of subsection 1 do not apply to a resident pupil of a secondary school district if the board of the secondary school district has entered into an agreement with another secondary school board under section 160 and the programs and subjects referred to in such clauses are offered in the schools covered by the agreement. R.S.O. 1970, c. 425, s. 62 (6); 1972, c. 75, s. 16 (2). Where agreement between boards

39.—(1) A person who is qualified to be a resident pupil of a secondary school district and who applies for admission to a secondary school situated in another secondary school district shall furnish the principal of the school to which admission is sought with a statement Admission of resident pupil from other district

signed by his parent or guardian or by the pupil where the pupil is an adult, stating,

(*a*) the name of the secondary school district in respect of which he is qualified to be a resident pupil;

(*b*) whether or not the pupil or his parent or guardian is assessed in the secondary school district in which the school is situated, and if so assessed the amount of such assessment; and

(*c*) the authority, under this Act, under which the pupil claims to have a right to attend the school. R.S.O. 1970, c. 425, s. 65 (1); 1972, c. 75, s. 18, *amended*.

Notice of admission

(2) The principal of the school shall forward the statement to the chief executive officer of the board that operates the school and, if the pupil is admitted, the chief executive officer of the board shall forthwith notify the chief executive officer of the board of the secondary school district of which the pupil is qualified to be a resident pupil of the fact of the admission and of the information included in the statement. R.S.O. 1970, c. 425, s. 65 (2), *amended*.

Admission to secondary school

40.—(1) Where a pupil has been promoted from elementary school, he shall be admitted to secondary school.

Idem

(2) A person who has not been promoted from elementary school shall be admitted to a secondary school if the principal of the secondary school has satisfied himself that the applicant is competent to undertake the work of the school. R.S.O. 1970, c. 425, s. 61 (1, 2), *amended*.

Where admission denied

(3) Where an applicant for admission to a secondary school under subsection 2 is denied admission by the principal, the applicant may appeal to the board and the board may, after a hearing, direct that the applicant be admitted or refused admission to a secondary school.

Alternative course or program

(4) Where the pupil has clearly demonstrated to the principal that he is not competent to undertake a particular course or program of studies, the principal shall not permit him to undertake such course or program, in which case the pupil may take a prerequisite course, or select with the approval of the principal an appropriate alternative course or program provided that, where the pupil is a minor, the consent of his parent or guardian has been obtained.

(5) A person is entitled to enrol in a course of study in an evening class if, in the opinion of the principal after due examination or other investigation, he is considered competent to undertake the desired course, but his admission to such course does not entitle him to be admitted to a day course. R.S.O. 1970, c. 425, s. 61 (3, 4, 5), *amended*. Admission to evening classes

41. Where, for any reason, one parent of a person is the sole support of the person, and that parent, Admission where one parent is sole support

(*a*) resides in Ontario;

(*b*) is not assessed for school purposes in Ontario; and

(*c*) boards the person in a residence that is not a children's boarding home as defined in *The Children's Boarding Homes Act*, R.S.O. 1970, c. 65

the person shall, if otherwise qualified to be a resident pupil, be deemed to be a resident pupil in respect of,

(*d*) a school section, if such residence is situate in the school section and is assessed to the support of public schools; or

(*e*) a separate school zone, if the person is a Roman Catholic and such residence is situate in the separate school zone and is assessed to the support of separate schools; or

(*f*) a secondary school district, if such residence is situate in the secondary school district and is assessed to the support of secondary schools. R.S.O. 1970, c. 385, s. 5 (6); R.S.O. 1970, c. 425, ss. 64 (4), 77 (3); R.S.O. 1970, c. 430, s. 25 (10), *amended*.

42.—(1) A person who resides in a school section, separate school zone or secondary school district in which his parent or guardian resides, on land that is exempt from taxation for school purposes, is not qualified to be a resident pupil of the school section, separate school zone or secondary school district, unless the person or his parent or guardian is assessed and pays taxes for school purposes in such school section, separate school zone or secondary school district. Tax exempt land

(2) A person who is otherwise qualified to attend an elementary or secondary school and who resides on land that is exempt from taxation for school purposes shall be admitted Resident on land exempt from taxation

to a school that is accessible to him where the appropriate supervisory officer has certified that there is sufficient accommodation for the person in the school for the current year, and fees calculated in accordance with the regulations shall, except where the regulations provide otherwise in respect of such fees, be prepaid monthly by the person or by his parent or guardian. R.S.O. 1970, c. 425, s. 1, *part*; R.S.O. 1970, c. 430, s. 25 (16); 1971, c. 69, s. 1 (3), *part, amended*.

Admission of ward, etc., of children's aid society to an elementary school

43.—(1) A child who is a ward of a children's aid society or in the care of a children's aid society, and who is otherwise qualified to be admitted to an elementary school, shall be admitted without the payment of a fee to an elementary school operated by the board of the school section or separate school zone, as the case may be, in which the child resides. 1971, c. 69, s. 1 (1); 1971, c. 70, s. 1 (1), *amended*.

Admission of ward, etc., of children's aid society to a secondary school

(2) A child who is a ward of a children's aid society or in the care of a children's aid society, and who is otherwise qualified to be admitted to a secondary school, shall be admitted without the payment of a fee to a secondary school operated by the board of the secondary school district in which the child resides. 1971, c. 68, ss. 6 (1), 7 (1).

Where fee payable

44. Where a child who is in the custody of a corporation, society or person, has not the right under the other provisions of this Part to attend the school that the corporation, society or person elects that he attend, and the appropriate supervisory officer certifies that there is sufficient accommodation in such school for the current school year, the board that operates such school shall, where the child is otherwise qualified to attend such school, admit the child to the school upon the prepayment monthly by the corporation, society or person of a fee calculated in accordance with the regulations. R.S.O. 1970, c. 385, s. 5 (9); R.S.O. 1970, c. 425, s. 64 (3); R.S.O. 1970, c. 430, s. 25 (9), *amended*.

Right of certain pupils to attend school in another jurisdiction

45.—(1) Where, on the 31st day of December, 1968, a pupil was enrolled in a public, separate or secondary school that he had a right to attend, and the school on and after the 1st day of January, 1969, is situated in a school division or a combined separate school zone, as the case may be, other than the school division or the combined separate school zone in which the pupil resides, the pupil has, in addition to any other right that he may have under this Act, subject to subsection 5 of section 37, the right to attend the school until he completes his education in the school.

(2) Where any part of a school section, separate school zone or secondary school district, after the 1st day of January, 1969, forms part of a school division or a county or district combined separate school zone, as the case may be, other than the school division or county or district combined separate school zone in which the school that the pupils resident in such part had the right to attend on the 31st day of December, 1968, is situate, all pupils who reside in such part after the 1st day of January, 1969, may attend such school until the divisional boards concerned, or the county or district combined separate school boards concerned, as the case may be, agree to other arrangements for the accommodation of such pupils. R.S.O. 1970, c. 425, s. 43 (1, 2); R.S.O. 1970, c. 430, s. 92 (1, 2). Idem

(3) Where, on the 31st day of December, 1973, a pupil is enrolled in a public or secondary school that he has a right to attend and the school, on and after the 1st day of January, 1974, is situated in a school division other than the school division in which the pupil resides, the pupil has, in addition to any right that he may have under this Act, subject to subsection 5 of section 37, the right to attend the school until he completes his education in the school, and the divisional boards concerned may enter into an agreement in respect of the transportation to and from school of such pupils. 1973, c. 91, s. 4 (1). Idem

(4) Where, on the 31st day of December, 1973, a pupil is enrolled in a separate school that he has a right to attend and the school, on and after the 1st day of January, 1974, is situated in the area of jurisdiction of a separate school board other than the separate school board that has jurisdiction in the area in which the pupil resides, the pupil has, in addition to any other right that he may have under this Act, the right to attend the school until he completes his education in the school, and the separate school boards concerned may enter into an agreement in respect of the transportation to and from school of such pupils. 1973, c. 117, s. 4 (1). Idem

(5) This section does not extend the right acquired by a pupil to attend a school under an order of the Ontario Municipal Board or under an agreement between two or more boards or between a board and the Crown in right of Canada. R.S.O. 1970, c. 425, s. 43 (3); R.S.O. 1970, c. 430, s. 92 (3). Application

46.—(1) Where a resident pupil of a secondary school district attends a secondary school that he has a right to attend under subsection 1 of section 38, the board of the Fees payable

secondary school district of which he is a resident pupil shall pay to the board that operates the secondary school attended by the pupil a fee calculated in accordance with the regulations. R.S.O. 1970, c. 425, s. 63 (2), *amended*.

Idem

(2) Where a resident pupil of a school division attends a public or secondary school in another school division under section 45, the divisional board of which he is a resident pupil shall pay to the divisional board that operates the school attended by the pupil a fee calculated in accordance with the regulations. R.S.O. 1970, c. 385, s. 5 (15), *amended*.

Idem

(3) Where a separate school pupil resident in a county or district combined separate school zone attends a separate school in another combined separate school zone under section 45, the board of the combined separate school zone in which he resides shall pay to the combined separate school board that operates the separate school attended by the pupil a fee calculated in accordance with the regulations. R.S.O. 1970, c. 430, s. 25 (17), *amended*.

Admission of resident pupil to another school by reason of distance to school

(4) A child who resides with his parent or guardian in a residence that is assessed to the support of public schools and who may be excused from attendance under clause *c* of subsection 2 of section 20 may be admitted to a public school in another school section if the appropriate supervisory officer certifies that there is sufficient accommodation for him, and the board of the section in which the child resides shall pay to the board of the other school section a fee calculated in accordance with the regulations. R.S.O. 1970, c. 385, s. 5 (3), *amended*.

Admission of non-resident pupils

(5) A board may admit to a school that it operates a person who, except as to residence, is qualified to attend such school, and may, at its discretion, require the payment by or on behalf of the person of a fee calculated in accordance with the regulations. R.S.O. 1970, c. 385, s. 5 (14); R.S.O. 1970, c. 425, s. 62 (5), *amended*.

PART III

PUBLIC AND SECONDARY SCHOOLS

Tax Exemption of Separate School Supporters

Exemption of supporters of separate schools

47. Nothing in this Act authorizing the levying or collecting of taxes on property rateable for public school purposes applies to the supporters of Roman Catholic separate schools or Protestant separate schools, except that the taxable prop-

erty in respect of which a person gives notice under section 116 or 135 or under section 23 of *The Assessment Act* is not exempt from taxation for public school purposes imposed before the person becomes a separate school supporter in respect of such property. R.S.O. 1970, c. 385, s. 2, *amended*. R.S.O. 1970, c. 32

Religious Instruction

48.—(1) Subject to the regulations, a pupil shall be allowed to receive such religious instruction as his parent or guardian desires or, where the pupil is an adult, as he desires. Religious instruction

(2) No pupil in a public school shall be required to read or study in or from a religious book, or to join in an exercise of devotion or religion, objected to by his parent or guardian, or by the pupil, where he is an adult. R.S.O. 1970, c. 385, s. 7, *amended*. Religious exercises

Visitors

49. A parent or guardian of a child attending a public or secondary school and a member of the board that operates the school may visit such school, and a member of the Assembly and a clergyman may visit a public and secondary school in his constituency or in the area where he has pastoral charge, as the case may be. R.S.O. 1970, c. 385, s. 8 (1), *amended*. Visitors

Divisional Boards

50.—(1) A school section or a secondary school district that is designated as such by the Minister on lands held by the Crown in right of Canada or Ontario or by an agency thereof, or on any lands that are exempt from taxation for school purposes, shall not be included in a school division. Application to schools on exempt land

(2) For divisional board purposes, the County of Essex includes Pelee Island. Essex county

(3) In respect of divisional boards of education, Territory without municipal organization deemed district municipality

(*a*) every school section in existence on the 31st day of December, 1968 that comprised only territory without municipal organization, except a school section established under section 67 or 68;

(*b*) any part of territory without municipal organization that on the 31st day of December, 1968 was part of a high school district but was not in a school section; and

(*c*) any part of territory without municipal organization that is designated by a regulation made under sub-

section 1 of section 52, or a predecessor thereof, as a district municipality or that is added to a school division without being so designated and that on the 31st day of December, 1968 was not in a school section or in a high school district,

shall be deemed to be a district municipality. R.S.O. 1970, c. 425, s. 27 (2-4), *amended*.

Powers and duties of divisional board re territory without municipal organization

51.—(1) Subject to subsection 2, the divisional board of a school division that includes territory without municipal organization that is deemed a district municipality shall, for public school purposes and for secondary school purposes, exercise the powers and duties of a municipal council for such district municipality with respect to preparing estimates, levying rates, collecting taxes and issuing debentures for the purposes of the divisional board, and with respect thereto and to the election of members of the divisional board all the officers appointed by the divisional board have the same powers and duties as similar officers in an organized municipality and the provisions of subsections 5 to 11 of section 65 apply *mutatis mutandis*, and the expenses incurred by the board in connection therewith except the issuing of debentures shall be apportioned to the property rateable for public school purposes and to the property rateable for secondary school purposes in such district municipality in the ratio that the assessment of such property rateable for public school purposes bears to the assessment of such property rateable for secondary school purposes, and shall be included in the levy imposed for school purposes on such property. R.S.O. 1970, c. 425, s. 27 (5); 1972, c. 136, s. 2, *amended*.

Parts of territory without municipal organization attached to municipality

(2) Except as provided in subsection 4, where any part of territory without municipal organization that is included in a school division is attached to a municipality for public school purposes or is deemed to be attached to a municipality for public and secondary school purposes, such part shall continue to be deemed to be attached to such municipality for the purposes of the divisional board, and the officers of such municipality shall collect all taxes and do all such other acts and perform all such duties and be subject to the same liabilities with respect to such part of territory without municipal organization that forms part of the school division as with respect to any part of the school division that is within the municipality, and the expenses incurred in connection therewith shall be apportioned to the property rateable for public school purposes and to the property rateable for secondary school purposes in such territory without municipal organization in the ratio that the assessment of such

property rateable for public school purposes bears to the assessment of such property rateable for secondary school purposes and shall be included in the levy imposed for school purposes on such property, but the divisional board may, by resolution passed before the 1st day of July in any year effective on the 1st day of January next following, a copy of which resolution shall be given forthwith to the Minister, the clerk of the municipality and the appropriate assessment commissioner, detach such territory from the municipality for school purposes and deem such territory to be a district municipality whereupon subsection 1 applies thereto. R.S.O. 1970, c. 425, s. 27 (7), *amended*.

Estimates to include expenses of collection, etc., and allowances to be made

(3) The divisional board in preparing estimates of the sums required to be raised under subsection 1 or 2 shall,

(*a*) make allowance for the abatement of and discount on taxes, for uncollectable taxes and for taxes that it is estimated will not be collected during the year in such part of the territory without municipal organization;

(*b*) include the proper proportion of the salaries and expenses of the officers involved, having regard to the time spent by such officers on their duties under subsection 1 or 2; and

(*c*) include the cost of providing elections of members of the board in such territory. R.S.O. 1970, c. 385, s. 40 (2), *amended*.

Where attached territory not included with municipality for election

(4) Where any part of territory without municipal organization is attached to a municipality for public school purposes, or is deemed to be attached to a municipality for public and secondary school purposes, and such part is included, pursuant to subsection 9 of section 57, with one or more municipalities in a combined area for the election of one or more members of the divisional board and the combined area does not include the municipality to which such part is so attached, such part shall be deemed to be attached for election purposes to the municipality that has the greatest residential and farm assessment in the combined area according to the last revised assessment roll as adjusted by the latest assessment equalization factor applicable thereto for each such municipality, provided by the Minister, and the provisions of subsection 2 apply *mutatis mutandis*. R.S.O. 1970, c. 425, s. 27 (8); 1972, c. 1, s. 63 (1); 1972, c. 75, s. 6 (3).

Elections in improvement districts

(5) The secretary-treasurer of an improvement district that forms all or part of a school division, in each year in which an election for members of the divisional board is to be held,

shall provide for such election in the improvement district in the same manner as for the election of members of a divisional board in a municipality and shall have all the powers and shall perform all the duties of the clerk and returning officer of a municipality in relation to the election of members of a divisional board under *The Municipal Elections Act, 1972*. R.S.O. 1970, c. 425, s. 27 (9); 1972, c. 75, s. 6 (4), *amended*.

1972, c. 95

School divisions, formation and alteration

52.—(1) The Lieutenant Governor in Council may, by regulation,

(*a*) designate as a school division all or part of one or more municipalities, localities, counties, regional municipalities, district municipalities or territory without municipal organization or a combination thereof;

(*b*) assign a name, subject to subsections 4, 5, 6 and 7, to the divisional board of a school division;

(*c*) dissolve a board of a school division or school section;

(*d*) combine two or more adjoining school divisions to form one school division and provide that the board of the combined school division shall be a divisional board of education;

(*e*) alter the boundaries of a school division and, where any part of territory without municipal organization is attached to a school division, designate such part as a district municipality or attach it to a district municipality.

Adjustment of assets and liabilities on formation

(2) Upon the formation of a new school division,

(*a*) all lands and premises that become part of a new school division, including the personal property therein or thereon and that, on the last school day immediately prior to such formation, were used as school sites and vested in the board of a school division or school section affected by such formation, become vested in the board of such new school division, and no compensation or damages are payable in respect of such lands, premises and personal property;

(*b*) all debts, contracts, agreements and liabilities for which a board or former board was liable in respect of that portion of its area of jurisdiction that becomes part of a new school division become obligations of the board of such new school division unless otherwise determined under clause *c*;

(*c*) the boards affected by such formation shall, in respect of the area that becomes part of a new school division, adjust in such manner as may be agreed upon by such boards, the assets and liabilities of such boards as of the date of such formation, except the property referred to in clause *a*, and, where the boards are unable to agree, any matter in disagreement shall be referred by a board affected to the Ontario Municipal Board, whose decision is final;

(*d*) the Minister may, by order, provide for the first election of the divisional board of a new school division, for a new election, subject to subsections 4 to 8 of section 54, of the divisional board or board of a school section of an altered school division or school section, for the right of pupils affected by such formation to continue to attend schools that they were attending immediately prior to the formation and for any matter not specifically provided for in this section that he considers necessary or advisable to carry out the intent and purposes of this Part.

Dissolution of board

(3) No regulation made under this section has the effect of dissolving a board unless so provided in the regulation.

Name of board; defined city

(4) Except where expressly provided in any other Act, the name of a divisional board that has jurisdiction in a defined city is "The Board of Education for the City of ....." (*inserting the name of the defined city*).

county

(5) The name of a divisional board that has jurisdiction in one county is "The..... County Board of Education" (*inserting the name of the county*).

regional municipality and counties

(6) Except where expressly provided in any other Act, the name of a divisional board that has jurisdiction in,

(*a*) all or part of a regional municipality;

(*b*) all or parts of two or more counties; or

(*c*) all or part of a regional municipality and all or part of one or more counties,

is "The..... Board of Education" (*inserting the name assigned by the regulations*).

territorial districts

(7) The name of a divisional board that has jurisdiction in the territorial districts is "The..... Board of Education" (*inserting the name assigned by the regulations*). R.S.O. 1970, c. 425, ss. 28, 29, *part, amended*.

Divisional boards establishment

53.—(1) A divisional board of education shall be established in each school division, and the members of the board shall be elected and the board organized in accordance with sections 50 to 57. R.S.O. 1970, c. 425, s. 29, *part*.

Deemed public school section and secondary school district

(2) For the purposes of every Act, a school division shall be deemed to be a school section and a secondary school district. R.S.O. 1970, c. 425, s. 28, *part*.

Powers and duties

(3) Every divisional board is a corporation and has all the powers and shall perform all the duties that by this or any other Act are conferred or imposed upon,

(*a*) a public school board for public school purposes; and

(*b*) a secondary school board for secondary school purposes. R.S.O. 1970, c. 425, s. 29, *part*.

Members to be trustees

(4) A member of a divisional board who is,

(*a*) elected by separate school electors; or

(*b*) appointed, in the case of a vacancy,

(i) by the remaining members elected to the divisional board by separate school electors, or

(ii) by a separate school board,

is a trustee for secondary school purposes only and shall not move, second or vote on a motion that affects public schools exclusively, and all other members of a divisional board are trustees for public and secondary school purposes. 1971, c. 68, s. 4, *amended*.

Trustees

(5) All members of a divisional board are trustees for the purposes of schools for trainable retarded children. R.S.O. 1970, c. 425, s. 72.

Alteration of boundaries: disposition of assets and liabilities

54.—(1) Where the boundaries of a school division are altered, except by reason of the formation of a new school division, all lands and premises that,

(*a*) are situate in an area that is added to a school section or secondary school district by such alteration;

(*b*) are used as school sites on the last school day preceding the effective date of such alteration; and

(*c*) immediately prior to the effective date of such alteration are vested in another board of education, public school board or secondary school board except a board appointed or formed under section 68,

shall, on and after such effective date, be vested without compensation, subject to all existing debts, contracts, agreements and liabilities that pertain to such lands and premises, in the board of the school section or secondary school district to which such area is added, and the boards concerned shall agree upon the disposition of all other property situate upon, or used in connection with, such lands and premises.

Dispute

(2) Any dispute as to the disposition of property under subsection 1 may be referred by one or more of the boards concerned to the Ontario Municipal Board, which shall determine the matters in dispute, and its decision is final.

Employment contracts

(3) The employment contract of every employee of a board who, immediately before the effective date of the alteration of the boundaries of a school division, was required to perform his duties in a school that is vested under subsection 1 in the board of a school division, school section or secondary school district becomes an obligation of the board in which the school is vested.

Representation of municipalities detached and added to another school division

(4) Subject to subsection 8, where one or more municipalities are detached from a school division and attached to an adjoining school division and a member of the board of the school division from which the municipality or municipalities are detached resides in one such municipality and was elected by public school electors to represent such municipality, whether or not the municipality was combined with one or more other municipalities for election purposes, such member shall, on the effective date of the attaching of the municipality or municipalities, cease to be a member of the board to which he was elected and shall on such date and for the remainder of his term of office be deemed,

(*a*) to have been elected by public school electors to the board of the school division to which the municipality in which he resides is attached; and

(*b*) to represent on such board the municipality in which he resides and the other municipality or municipalities, if any, that were combined therewith for election purposes under subsection 9 of section 57 at the time of his election and that are also attached to such school division,

and for such period the municipality or combined municipalities so attached shall be deemed to have been determined under subsection 9 of section 57 as a municipality or municipalities to be represented by one member to be elected by the public school electors.

Where board reduced by transfer of area

(5) Where one or more municipalities are detached from a school division and the number of members of the board of such school division elected by public school electors is reduced pursuant to subsection 4, for the remainder of the term of the board the number of members who remain on the board and who were elected by public school electors and the total number of members who remain on the board shall be deemed to be the number of members to be elected by public school electors under subsection 4 of section 57 and the total number of members determined under subsection 2 of section 57 respectively.

Representation of public school electors of municipality attached to school division

(6) Subject to subsection 8, where a municipality or part thereof is detached from a school division and attached to an adjoining school division, school section or secondary school district, on the effective date thereof and for the remainder of the term of office of the board of the enlarged school division, school section or secondary school district, the public school electors of such municipality or part shall be represented thereon by the member or members last elected thereto by the public school electors of the municipality, combination of municipalities or ward that adjoins the attached municipality or part and, where there are two or more such organized municipalities, combinations of municipalities or wards, the members of the board elected by public school electors shall, by resolution, determine which member or members shall represent the public school electors in the attached municipality or part for the remainder of the term of office of the board, but this subsection does not apply to the municipality or municipalities that will be represented by a member by virtue of subsection 4.

Representation of separate school supporters of municipality attached to school division

(7) Subject to subsection 8, where one or more municipalities or part or parts thereof are detached from a school division and attached to an adjoining school division or secondary school district, on the effective date thereof and for the remainder of the term of office of the board of the

enlarged school division or secondary school district, the separate school supporters in each such municipality or part shall be represented thereon by the member or members last elected thereto by the separate school electors in the area that adjoins such attached municipality and for which one or more members are elected to represent separate school supporters.

Where subss. 4, 6, 7 do not apply

(8) Subsections 4, 6 and 7 do not apply where a regular election of the board is to be held in the year preceding the effective date on which the municipality, municipalities or part or parts thereof are attached to the adjoining school division, school section or secondary school district, as the case may be. 1973, c. 91, s. 1.

Composition of board for defined city, members elected by public school electors

55.—(1) Where a school division comprises only a defined city, the members to be elected to the divisional board by public school electors shall, except where the method of election is that provided under subsection 1 or 2 of section 56, be elected by a general vote of such electors, in which case the number of members shall be determined by the population of the municipality as follows, where the population is,

(*a*) less than 10,000, six members;

(*b*) 10,000 or more but less than 50,000, eight members;

(*c*) 50,000 or more but less than 100,000, ten members;

(*d*) 100,000 or more, twelve members. R.S.O. 1970, c. 385, s. 16 (2); R.S.O. 1970, c. 425, s. 37 (1), *amended*.

Change in number of members

(2) Where it becomes evident from the population of a defined city that the number of members of the divisional board to be elected by public school electors should be increased or decreased, at the next election of trustees the proper number of members shall be elected. R.S.O. 1970, c. 385, s. 16 (3), *amended*.

Members elected by separate school electors

(3) In addition to the members elected by the public school electors under subsection 1 or section 56, the separate school electors in the defined city shall elect the number of members equal to the product, correct to the nearest integer, the fraction one-half being raised to the next higher integer, obtained by multiplying the number of members to be elected by the public school electors by the ratio of the residential and farm assessment of the property rateable for separate school purposes in the defined city to the residential and

farm assessment of the property rateable for public school purposes in the defined city, according to the latest revised collector's roll, but in no case shall the number of members to be elected under this subsection be fewer than two. R.S.O. 1970, c. 425, s. 37 (2), *amended*.

Clerk to make determination

(4) The clerk of the defined city shall make the determination under subsection 3 and shall send to the secretary of the divisional board, before the 1st day of September in the year of the election of the divisional board, a copy of the determination. 1972, c. 75, s. 10.

Election by separate school electors in defined city

(5) The members to be elected under subsection 3 shall be elected as provided in subsection 21 of section 57, which subsection applies *mutatis mutandis*. R.S.O. 1970, c. 425, s. 37 (3), *amended*.

Defined city divided into wards

56.—(1) The number of members to be elected by the public school electors of a defined city that is divided into wards may be two for each ward, elected by the electors of that ward. R.S.O. 1970, c. 385, s. 17 (1); 1972, c. 74, s. 4.

Where five or more wards

(2) Where a defined city is divided into five or more wards, the number of members to be elected by the public school electors may be one for each ward, elected by the electors of that ward. R.S.O. 1970, c. 385, s. 17 (2), *amended*.

Method of changing composition and election of board

(3) Subject to subsection 5, the number of members to be elected by the public school electors of a defined city that is divided into wards, and the method of their election, may be changed from the existing number and method to another number and method that is in accordance with section 55 or this section by resolution passed by majority vote of the members of the board who were elected by the public school electors, and upon notice thereof given by the chief executive officer of the board to the clerk of the defined city before the 1st day of July next preceding the election. R.S.O. 1970, c. 385, ss. 17 (3), 18 (1), *amended*.

Election of new board after change

(4) At the election next following the giving of the notice required under subsection 3, the proper number of members shall be elected. R.S.O. 1970, c. 385, s. 18 (3), *amended*.

Limitations on changing election

(5) A change in the method of election may not be made under this section unless the board has been elected by the existing method for at least the two preceding regular elections. R.S.O. 1970, c. 385, s. 18 (4), *amended*.

57.—(1) In this section, Interpretation

(*a*) "equalized residential and farm assessment" means the residential and farm assessment referred to in clause *b* as adjusted by the latest assessment equalization factor applicable thereto that is provided by the Minister;

(*b*) "residential and farm assessment" means the residential and farm assessment upon which taxes are levied in the year in which,

(i) a determination referred to in this section is made, or

(ii) nominations are held,

as the case may be;

(*c*) the Town of Newcastle in The Regional Municipality of Durham shall be deemed to be a city. R.S.O. 1970, c. 425, s. 38 (1); 1972, c. 75, s. 11 (1-3), *amended*.

(2) Subject to subsections 4, 5 and 6, the number of members on a divisional board, except a divisional board of a defined city, shall be determined by the total population of the municipalities, not including any territory without municipal organization that is deemed a district municipality, within the school division, as follows, where the population is, Composition of board for other than defined city

(*a*) less than 50,000, fourteen members;

(*b*) 50,000 or more but less than 100,000, sixteen members;

(*c*) 100,000 or more but less than 150,000, eighteen members;

(*d*) 150,000 or more, twenty members,

provided that where a school division in the territorial districts comprises fewer than four municipalities, not including any territory without municipal organization that is deemed a district municipality, where the population of such municipalities in the school division is,

(*e*) less than 3,500, five members;

(*f*) 3,500 or more but less than 5,000, eight members; and

(*g*) 5,000 or more but less than 10,000, ten members.

Change in number of members

(3) Where it becomes evident from the population of the municipalities in a school division that the number of members on a divisional board should be increased or decreased in accordance with subsection 2, at the next election of members the proper number of members shall be elected.

Number of members to be elected by public school electors

(4) The public school electors of the school division shall elect the number of members equal to the product, correct to the nearest integer, the fraction one-half being raised to the next higher integer, obtained by multiplying the number of members to be elected under subsection 2 by the ratio of the equalized residential and farm assessment of the property rateable for public school purposes in the school division to the equalized residential and farm assessment of all the rateable property in the school division, but in no case shall the number of members to be elected under this subsection be fewer than,

(*a*) six where the number of trustees under subsection 2 is fourteen or more; or

(*b*) four where the number of trustees under subsection 2 is fewer than fourteen.

Number of members to be elected by separate school electors

(5) The separate school electors in the school division shall elect the number of members equal to the product, correct to the nearest integer, the fraction one-half being raised to the next higher integer, obtained by multiplying the number of members to be elected under subsection 2 by the ratio of the equalized residential and farm assessment of the property rateable for separate school purposes in the school division to the equalized residential and farm assessment of all the rateable property in the school division, but where the product obtained is less than one, one member shall be elected under this subsection. R.S.O. 1970, c. 425, s. 38 (2-5).

Number of members to be elected by public school electors in a city and in county or district municipalities

(6) The number of members of a divisional board to be elected by the public school electors,

(*a*) of each city shall be equal to the product, correct to the nearest integer, the fraction one-half being

raised to the next higher integer, obtained by multiplying the number of members determined under subsection 4 by the ratio of the equalized residential and farm assessment of the property rateable for public school purposes in the city to the equalized residential and farm assessment of all the property rateable for public school purposes in the school division; and

(*b*) of the county or district municipalities shall be the number of members determined under subsection 4 less the total number of members determined under clause *a* for the city or cities, if any, but in no case shall the number of members to be elected under this clause be fewer than one. R.S.O. 1970, c. 425, s. 38 (6); 1972, c. 75, s. 11 (4).

When determination to be made under subss. 4-6

(7) Before the 1st day of September in the year in which an election is to be held, a determination shall be made,

(*a*) under subsections 4, 5 and 6 if,

(i) it is determined under subsection 3 that the number of members of the divisional board should be increased or decreased, or

(ii) the boundaries of the school division are altered effective the 1st day of January next following the election, or

(iii) the boundaries of the school division have been altered subsequent to the latest determination;

(*b*) under subsection 6 if,

(i) the boundaries of one or more cities within the school division have been altered or a new city has been erected in the school division subsequent to the latest determination made under subsection 6 that did not take into account the altered boundaries or the new city, or

(ii) the boundaries of one or more cities within the school division are to be altered or a new city is to be erected effective on the 1st day of January of the year next following the election; and

(*c*) under subsections 4, 5 and 6 in every fourth year following the latest determination under subsections 4 and 5,

and a determination made under subsection 4, 5 or 6 is effective until a new determination is required in accordance with this subsection.

Where city does not qualify for at least one member to be elected by public school electors

(8) Where a city is not entitled to one or more members under clause *a* of subsection 6, the city shall be deemed to be a county or district municipality for the purposes of subsections 6 and 9, and the clerk of the city shall be deemed to be a clerk of a county or district municipality for the purposes of subsection 9. R.S.O. 1970, c. 425, s. 38 (7, 8); 1973, c. 91, s. 3 (1), *amended*.

Distribution of members to be elected by public school electors in county or district municipalities

(9) With respect to,

(*a*) the county municipalities in a county that comprises a school division, the council of the county;

(*b*) the county municipalities in a regional municipality that are in a school division and the county municipalities in a school division that comprises a county and part of a regional municipality, the clerks of the three county municipalities having successively the greatest equalized residential and farm assessment for public school purposes in the school division; and

(*c*) the district municipalities in a school division, the clerks of the three organized district municipalities having successively the greatest equalized residential and farm assessment for public school purposes in the school division and the clerk of each town or village in which a secondary school is located in the school division and, where there are fewer than three organized district municipalities in the school division, the clerks of all such municipalities,

shall determine the municipality or municipalities to be represented by each member to be elected in the school division by the public school electors under clause *b* of subsection 6, but in no case shall the determination under this subsection provide for a member to be elected by a general vote of all the public school electors of the municipalities other than cities in the school division, and such determination is effective for a period of four years or until the number of members for the school division is increased or decreased under subsection 3 or the boundaries

of one or more county or district municipalities within the school division are altered or are to be altered effective the 1st day of January next following the election. R.S.O. 1970, c. 425, s. 38 (9); 1972, c. 75, s. 11 (5, 6), *amended*.

Distribution of members within combined municipalities

(10) Where two or more county municipalities that are not in a regional municipality are combined under subsection 9 for the election of two or more members by the public school electors and one of the combined municipalities has a population in excess of 75,000, the clerks of such combined municipalities may determine that a portion of a county municipality that is so combined be attached to one or more of the other county municipalities in the combination of municipalities for the election of one or two members and, where the clerks of such combined municipalities so determine,

(*a*) the number of members to be elected by the public school electors of the combined municipalities shall be apportioned among the combined areas formed under this subsection and the remainder, if any, of such combined municipalities, as nearly as is practicable in the proportion that the equalized residential and farm assessment of the property rateable for public school purposes in each such combined area and in the remainder, if any, of such combined municipalities, bears to the total equalized residential and farm assessment of the property rateable for public school purposes in the combined municipalities; and

(*b*) where the remainder of a county municipality is to be represented by two or more members, subsections 21 and 22 apply *mutatis mutandis* in respect of such remainder.

Appeal from determination under subs. 10

(11) Where the determination made under subsection 10 apportions to a combined area or to the remainder of the combined municipalities a percentage of the total number of members to be elected by the public school electors of the combined municipalities as determined under subsection 9 that differs by more than five percentage points from the percentage that the equalized residential and farm assessment of the property rateable for public school purposes in the combined area or the remainder of the combined municipalities, as the case may be, is of the total equalized residential and farm assessment of the property rateable for public school purposes in the combined municipalities, the council of a municipality all or part of which is in the combined area or part of which forms such remainder, as the case may be, may, within fifteen days after such determination has been made, appeal the determination to the judge who

shall either reapportion the number of members in accordance with clause *a* of subsection 10 or, where he determines that the determination was made in accordance with such clause, confirm the determination, and his decision is final. 1972, c. 75, s. 11 (7).

When determination to be made

(12) The determination under subsection 9 shall be made before the 1st day of September, and the determination under subsection 10 may be made before the 15th day of September, in each year in which an election is to be held if,

(*a*) a determination is made in accordance with subsection 7; or

(*b*) the boundaries of one or more county or district municipalities have been altered subsequent to the latest determination under subsection 9, or are to be altered effective the 1st day of January next following the election; or

(*c*) the boundaries of the school division are altered, or are to be altered effective the 1st day of January next following the election. R.S.O. 1970, c. 425, s. 38 (10); 1972, c. 75, s. 11 (8); 1973, c. 91, s. 3 (2).

Where judge to make determination

(13) Where the determination under subsection 9 is not made before the 1st day of September, the clerk of the county municipality or of the organized district municipality, as the case may be, having the greatest equalized residential and farm assessment for public school purposes in the school division, shall refer the matter to the judge who shall make the determination before the 1st day of October in accordance with subsection 14, and where, for any reason, the determination is not made before the 1st day of October, the election shall proceed on the basis of the latest determination. 1972, c. 75, s. 11 (9), *amended*.

Determination

(14) In determining under subsection 9,

(*a*) the number of members to be elected by the public school electors of a county or district municipality; or

(*b*) the county or district municipalities that are to be combined for the election of one or more members by the public school electors of such municipalities,

the council of the county or the clerks of the district municipalities, or the clerks of the county municipalities in a school division in a regional municipality, as the case may be, shall apportion the number of members determined under clause

b of subsection 6, as nearly as is practicable, in the proportion that the equalized residential and farm assessment of the property rateable for public school purposes in the municipality or combined municipalities bears to the total equalized residential and farm assessment of the property rateable for public school purposes in all the county or district municipalities in the school division and shall, in so far as it is practicable to do so, combine municipalities that are adjoining.

Idem

(15) Notwithstanding subsection 14, where the equalized residential and farm assessment of the property rateable for separate school purposes in a school division in a territorial district is less than 5 per cent of the equalized residential and farm assessment of all the rateable property in the school division, and where the equalized residential and farm assessment of the property rateable for public school purposes in a district municipality, expressed as a percentage of the total residential and farm assessment of all such property in the district municipalities in the school division, differs by fifteen or more percentage points from the population of such municipality expressed as a percentage of the total population of all the district municipalities comprising the school division, the clerks of the district municipalities shall apportion the number of members determined under clause *b* of subsection 6, as nearly as is practicable, in the proportion that the population of a district municipality or combination of district municipalities bears to the total population of all the district municipalities comprising the school division, and the right of appeal as provided in subsection 16 applies, but shall be based upon population rather than equalized residential and farm assessment.

Appeal from determination

(16) Where the determination made under subsection 9 allots to a municipality or to a combination of municipalities a percentage of the total number of members to be elected by the public school electors of all the county or district municipalities in the school division that differs by more than five percentage points from the percentage that the equalized residential and farm assessment of the property rateable for public school purposes in the municipality or combination of municipalities is of the total equalized residential and farm assessment of the property rateable for public school purposes in all the county or district municipalities in the school division, the council of the municipality or the council of any one of such combination of municipalities, as the case may be, may, within fifteen days after notice of the determination has been sent, appeal the determination to the judge who shall either reapportion the number of members in accordance with subsection 14 or, where he determines that the determination was made in accordance with subsection 14, confirm the determination, and his decision is final.

Information for determination

(17) The clerk of each city and of each county municipality, district municipality or regional municipality in a school division and the chief executive officer of the divisional board shall provide to the persons required to make a determination under this section, on their request, the information required for such purpose. R.S.O. 1970, c. 425, s. 38 (12-15), *amended*.

By whom determination to be made

(18) The determinations required to be made under subsections 2, 4, 5, 6 and 24 shall be made in respect of a school division,

(*a*) in a county or in a county and part of a regional municipality, by the clerk of the county;

(*b*) entirely in a regional municipality, by the clerk of the regional municipality;

(*c*) in the territorial districts,

(i) by the clerk of the organized district municipality, or

(ii) where the school division does not include an organized district municipality, by the clerk of the city,

that has the greatest equalized residential and farm assessment for public school purposes in the school division,

and the clerk who makes such determinations shall send by registered mail to the clerk of each city and of each county or district municipality in the school division and to the secretary of the divisional board,

(*d*) before the 1st day of September in each year in which it is determined under subsection 3 that the number of members of the divisional board should be increased or decreased or in which a determination is made under subsection 9 or 25, a copy of each of the determinations made under subsections 2, 4, 5, 6, 9, 24 and 25; and

(*e*) before the 1st day of October in each year in which a determination is made by the judge under subsection 13 or 25, a copy of the determination. R.S.O. 1970, c. 425, s. 38 (16); 1972, c. 75, s. 11 (10); 1972, c. 136, s. 4, *amended*.

Questions to be determined by judge

(19) The council of any municipality concerned and a divisional board on behalf of any territory without municipal organization that is deemed a district municipality may, within ten days of the mailing of the determination made under subsection 4, 5, 6 or 24, appeal to the judge with respect to the accuracy of the determination, and his decision is final, and the clerk responsible for making such determination shall make such changes in such determination as the judge requires.

New determination where former determination improper

(20) Where the council of a municipality or a divisional board on behalf of any territory without municipal organization that is deemed a district municipality, after the period allowed for an appeal under this section and notwithstanding a decision made in respect of such appeal, is of the opinion that the composition of the board of a school division was not determined in accordance with the provisions of this section, the council or the board may, before the 1st day of May in the year of the next following election, apply to the judge to have the determination set aside and, where the judge finds that the determination was not made in accordance with the provisions of this section, he shall order a new determination to be made, and the determination so made, subject to an appeal under subsection 16 or 19, shall apply to the election next following such determination, and the divisional board in respect of which the application to the judge is made shall be deemed to have been properly constituted notwithstanding any defect in its composition.

Election by public school electors and by separate school electors

(21) The number of members to be elected in a municipality shall be elected by a general vote of the public school electors or separate school electors, as the case may be, in the municipality, provided that, where it is determined under this section that the number of members to be elected to the divisional board by the public school electors in a municipality or by the separate school electors in a municipality is two or more, the council of the municipality may, by by-law, divide the municipality into two or more areas and provide for the election of one or more of such members by the public school electors or separate school electors, as the case may be, in each of such areas. R.S.O. 1970, c. 425, s. 38 (17-19).

Time for passing by-law

(22) A by-law for the purpose mentioned in subsection 21 and a by-law repealing any such by-law shall not be passed later than the 1st day of October in the year of the election and shall take effect for the purpose of the election next after the passing of the by-law and remain in force until repealed. R.S.O. 1970, c. 425, s. 38 (20), *amended*.

Election by public school electors in county and district municipalities

(23) Where two or more county or district municipalities are combined for the election of one or more members, such member or members shall, except where a determination is made under subsection 10, be elected by a general vote of the public school electors of the combined municipalities, and where, under subsection 10 or 11, a portion of a county municipality is attached to one or more other county municipalities for the election of one or two members or the remainder of the combined municipalities comprises parts of two or more municipaities, the number of members apportioned thereto shall be elected by a general vote of the public school electors of such combined area or remainder, and,

(*a*) the nominations in each case shall be submitted to the returning officer of the municipality having the greatest equalized residential and farm assessment for public school purposes of any municipality all of which is in the area for which the member or members are to be elected, who shall send to the clerk of each municipality concerned, by registered mail within forty-eight hours after the closing of nominations, the names of the candidates who have qualified; and

(*b*) the clerk of each municipality shall be the returning officer for the vote to be recorded in his municipality and he shall report forthwith the vote recorded to the returning officer referred to in clause *a*, who shall prepare the final summary and announce the result of the vote. 1972, c. 75, s. 11 (11).

Number of members to be elected by separate school electors in cities and county or district municipalities

(24) Where a school division includes one or more county or district municipalities and one or more cities, and the number of members to be elected by the separate school electors under subsection 5 exceeds one, the number of members to be elected by the separate school electors of each city and of the county or district municipalities shall be determined in accordance with subsections 6, 7 and 8, which subsections apply *mutatis mutandis*, except that the equalized residential and farm assessment of the separate school supporters shall be used in the determinations.

Distribution of members to be elected by separate school electors

(25) Where it is determined under subsection 5 or 24 that the number of members to be elected by the separate school electors of the county or district municipalities in the school division exceeds one, the county or district municipalities to be represented by each such member shall be determined in accordance with subsections 9, 12, 13, 14 and 16, which subsections apply *mutatis mutandis*, except that,

(*a*) the equalized residential and farm assessments of the separate school supporters shall be used in all the determinations; and

(*b*) the reference in subsection 9 to the clerk of a town or village in which a secondary school is located in the school division shall be deemed to refer only to a town or village that is in a separate school zone. R.S.O. 1970, c. 425, s. 38 (22, 23).

Distribution of members within combined municipalities

(26) Where two or more county municipalities are combined for the election of two or more members to be elected by separate school electors, subsections 10 and 11 apply *mutatis mutandis* to such combination of municipalities except that the equalized residential and farm assessments of the property rateable for separate school purposes shall be used in all the determinations. 1972, c. 75, s. 11 (12).

Election of members by separate school electors

(27) Where the number of members,

(*a*) determined under subsection 5 is one, such member shall be elected by a general vote of the separate school electors of the school division; or

(*b*) to be elected by the separate school electors of the county or district municipalities under subsection 24 is one, such member shall be elected by a general vote of the separate school electors of the county or district municipalities in the school division. R.S.O. 1970, c. 425, s. 38 (24).

Idem

(28) Where,

(*a*) one member is to be elected by a general vote of the separate school electors of a school division or of the separate school electors of the county or district municipalities in a school division; or

(*b*) two or more municipalities are combined for the purpose of the election of one or more members by the separate school electors,

then,

(*c*) the nominations for such member or members shall be conducted by the returning officer of the municipality having the greatest equalized residential and farm assessment for separate school purposes of any municipality all of which is in the area for which the member or members are to be elected who shall send

to the clerk of each municipality concerned, by registered mail within forty-eight hours after the closing of nominations, the names of the candidates who have qualified; and

(*d*) the clerk of each municipality shall be the returning officer for the vote to be recorded in his municipality and he shall report forthwith the vote recorded to the returning officer referred to in clause *c*, who shall prepare the final summary and announce the result of the vote. R.S.O. 1970, c. 425, s. 38 (25); 1972, c. 75, s. 11 (13).

Secretary of board deemed clerk for elections in areas deemed district municipalities

(29) For the purposes of clause *b* of subsection 23 and clause *d* of subsection 28, the chief executive officer of the divisional board of a school division shall be the clerk of each part of territory without municipal organization that is deemed a district municipality in the school division. R.S.O. 1970, c. 425, s. 38 (26).

Elections

(30) The election of members of a divisional board shall be conducted by the same officers and in the same manner as elections of members of the council of a municipality. 1972, c. 75, s. 11 (14).

Effect of boundary change on elections

(31) Where the boundaries of a school division are to be altered effective on the 1st day of January next following the election of members of the board of the school division, the boundaries of the school division shall be deemed to have been so altered for all purposes relating to such election. 1972, c. 136, s. 5.

Boards of Education

Interpretation

58.—(1) In this section and in section 59, "board of education" means a board of education other than a divisional board of education. R.S.O. 1970, c. 425, s. 20.

Establishment and status of board

(2) A board of education may be established in a secondary school district that is not a school division to perform the duties of a secondary school board for the district and the duties of a public school board for the school section or sections situated within the boundaries of the district and, where a board of education is established, subsection 3 of section 53 applies, *mutatis mutandis*.

Name of board

(3) The name of a board of education that has jurisdiction in one municipality is "The Board of Education for the .....of....."
(*inserting the name of the municipality*).

(4) The name of a board of education that has jurisdiction in more than one municipality is "The..... Board of Education" (*inserting a name selected by the board and approved by the Minister*). R.S.O. 1970, c. 425, s. 21, *amended*. Idem

(5) A member of a board of education elected by separate school electors or, in the case of a vacancy, by the remaining members elected by separate school electors is a trustee for secondary school purposes only and shall not move, second or vote on a motion that affects public schools exclusively and all other members of a board of education are trustees for public and secondary school purposes. 1971, c. 68, s. 3, *amended*. Members to be trustees

(6) Upon the organization of a board of education, Assets, liabilities, etc.

(*a*) the secondary school board and all public school boards in the secondary school district are dissolved;

(*b*) all the property vested in such boards becomes vested in the board of education; and

(*c*) all debts, contracts, agreements and liabilities for which such boards were liable become obligations of the board of education. R.S.O. 1970, c. 425, s. 22.

59. Where a board of education is established for one municipality that is not a school division or part of a school division, the members of the board shall be elected as provided in section 55, which section applies *mutatis mutandis*, except that the number of members to be elected by the separate school electors shall be, Composition of boards of education

(*a*) where the population of the municipality is 50,000 or more, not fewer than two; and

(*b*) where the population of the municipality is less than 50,000, not fewer than one. R.S.O. 1970, c. 425, s. 24 (1).

District School Area Boards

60.—(1) On and after the 1st day of January, 1975, every school section that is in a territorial district but is not in a school division or designated as a school section under section 68 is a district school area, and the board of each such school section is a public school board and shall be known as a district school area board. School section to be district school area

Formation and alteration of district school area

(2) In respect of the territorial districts, the Lieutenant Governor in Council may, by regulation, on or before the 1st day of July in any year, to be effective on the 1st day of January next following,

(*a*) form any part thereof that is not in a school section into a district school area;

(*b*) combine two or more district school areas into one district school area;

(*c*) add a part thereof that is not in a school division to a district school area; or

(*d*) detach a portion thereof from one district school area and attach it to another district school area or form it into a new district school area.

Notification of assessment commissioner

(3) Where a district school area is formed or altered under subsection 2, the appropriate provincial supervisory officer shall notify the assessment commissioner concerned.

Effective date for election purposes

(4) Notwithstanding subsection 2, the formation or alteration of a district school area thereunder shall, for all purposes relating to the election of a board, be deemed to be effective on the 1st day of July in the year of such formation or alteration.

Arbitration

(5) Where the boundaries of a district school area are altered in accordance with clause *b* or *d* of subsection 2, the Minister shall, by order, provide for arbitration of the assets and liabilities of the boards concerned.

Name of board

(6) The board of a district school area is a corporation by the name of "The.....District School Area Board" (*inserting a name selected by the board and approved by the Minister*). *New.*

New district school areas

61.—(1) Where a district school area is formed under clause *b* of subsection 2 of section 60, upon the effective date of such formation the existing public school boards in the new district school area are dissolved, and, subject to subsection 5 of section 60,

(*a*) the property vested in such boards is vested in the new district school area board; and

(*b*) all debts, contracts, agreements and liabilities for which such boards were liable become obligations of the district school area board.

(2) Where the boundaries of a district school area are altered or a new district school area is formed under clause *d* of subsection 2 of section 60, upon the effective date of such alteration or formation, and, subject to subsection 5 of section 60, Alteration and formation: disposition of assets and liabilities

(*a*) all real and personal property of the board situate in the part of the district school area that is detached is vested in the board of the district school area to which such part is attached, or in the board of the new district school area, as the case may be; and

(*b*) all debts, contracts, agreements and liabilities of the board in respect of the part of the district school area that is detached become obligations of the board of the district school area to which such part is attached or of the board of the new district school area, as the case may be. *New*.

62.—(1) In sections 62, 63 and 64, "public school elector" means in respect of territory without municipal organization, owners and tenants of property in such territory without municipal organization, including their spouses who are Canadian citizens or British subjects and of the full age of eighteen years and who are not separate school supporters. Public school elector

(2) Subject to subsections 3 and 4, a district school area board shall be composed of three members. Composition of board

(3) Where a school section that is to become a district school area on the 1st day of January, 1975, has a board of five members, the district school area board shall be composed of five members. Idem

(4) Before the 1st day of July of an election year, the board of a district school area that is not an improvement district may, by resolution approved at a meeting of the public school electors, determine that the number of members to be elected shall be increased from three to five and, at the next following election, five members shall be elected. Increase in number of members

(5) The election of members of the board of a district school area that is not an improvement district shall be held in the year 1974 and in every second year thereafter, and the members shall hold office for a term of two years except that, Election year and term of office

(*a*) where a new district school area is formed to take effect on the 1st day of January in the year 1976 or in any second year thereafter the first members new board in "off election year"

of such board shall be elected in the year preceding such 1st day of January and shall hold office for one year; or

idem

(*b*) where the boundaries of a district school area are altered to take effect on the 1st day of January in the year 1976 or in any second year thereafter, a new district school area board shall be elected in the year preceding such 1st day of January, and the members so elected shall hold office for one year.

Members to remain in office

(6) The members of a district school area board shall remain in office until their successors have been elected and a new board is organized. *New*.

Elections and Meetings of Electors

Election date

63.—(1) Except as provided in section 64, a district school area board shall be elected at a meeting of the public school electors held on the first Monday in December in the year of an election at a time and place selected by the board.

Notice of meeting

(2) At least six days before a meeting under subsection 1 or 6, the secretary of the board shall post notice of the meeting in three or more of the most prominent places in the district school area and may advertise the meeting in such other manner as the board considers expedient.

Meeting

(3) Meetings of public school electors shall be conducted in the manner determined by the public school electors present at the meeting by a presiding officer selected by such electors, but the election of members of the board shall be by ballot, and the minutes of the meeting shall be recorded by a secretary selected by such electors.

First meeting

(4) The first meeting for the election of a board of a district school area formed or altered under subsection 2 of section 60 shall be held at a time and place named by a person, designated by the Minister, who shall make the necessary arrangements for the meeting.

Minutes to be sent to Ministry

(5) A correct copy of the minutes of every meeting of the public school electors, signed by the presiding officer and the secretary of the meeting, shall, within ten days after the meeting, be transmitted by the presiding officer to the Ministry.

(6) A special meeting of the public school electors shall be called by the secretary when directed by the board or upon the request in writing of five public school electors of the area, by posting notice of the meeting in three or more of the most prominent places in the district school area, and such notice shall include a clear statement of the date, time, place and objects of the meeting, and the meeting may be advertised in such other manner as is deemed necessary. *New*. Special meetings

(7) If objection is made to the right of a person in territory without municipal organization to vote at a meeting under this section, or at an election under section 64, the presiding officer or the returning officer, as the case may be, shall require the person to make the following declaration: Declaration where right to vote objected to

I, ..., declare and affirm that:

1. I am the owner (*or* tenant) of property in The..... District School Area; *or*, I am the spouse of the owner (*or* tenant) of property in The..... District School Area;

2. I am of the full age of eighteen years;

3. I am a Canadian citizen or British subject;

4. The property in respect of which I claim the right to vote is not assessed to the support of separate schools;

5. I have a right to vote at this election (*or* on the question submitted to this meeting),

and after making such declaration the person making it is entitled to vote. R.S.O. 1970, c. 385, s. 34 (7); 1971, c. 98, s. 4, Sched., par. 27, *amended*.

(8) In addition to the duties of a secretary under this Act, the secretary of the board of a district school area shall perform such other duties as are assigned to him by the board. *New*. Additional duties of secretary

64.—(1) Notwithstanding section 63, before the 1st day of July in an election year, the board of a district school area may, by resolution approved at a meeting of the electors, determine that the board shall conduct the elections in the same manner as for the members of a divisional board of education, except that the members shall be elected by a general vote of the electors of the district school area and for such purposes subsection 1 of section 51 applies *mutatis mutandis* to the district area board and to the officers of such board. Elections

Idem

(2) The board shall give notice of the determination made under subsection 1 to the electors in the same manner as provided in subsection 7 of section 63.

Idem

(3) Where a district school area comprises,

(*a*) a municipality other than an improvement district;

(*b*) a municipality and territory without municipal organization;

(*c*) all or part of two or more municipalities; or

(*d*) all or parts of two or more municipalities and territory without municipal organization,

the election of the board of such district school area shall be conducted under *The Municipal Elections Act, 1972*, and for the purposes of an election under this section in an improvement district or in territory without municipal organization the secretary of the board shall be the returning officer and shall perform all the duties that are required of a municipal clerk in relation to the election of members of a divisional board. *New*.

1972, c. 95

Powers and duties

65.—(1) The board of a district school area that includes territory without municipal organization shall, for public school purposes and in accordance with the regulations for community recreation purposes, exercise the powers and duties of a municipal council for such territory in respect of levying rates and collecting taxes, and the officers appointed by the board have the same powers and duties as similar officers in a municipality, and the expenses in connection therewith shall be raised by a levy imposed by the board on the property rateable for public school purposes in such territory without municipal organization. R.S.O. 1970, c. 385, s. 38 (1), *part, amended*.

Auditors and financial matters

(2) Subject to subsection 3, the provisions of sections 203, 204, 205 and 206 respecting auditors, debentures, estimates and apportionment apply *mutatis mutandis* in respect of a district school area and to the board thereof. R.S.O. 1970, c. 385, s. 38 (1), *part, amended*.

Rates in municipality

(3) Where a district school area includes a municipality, section 208 applies *mutatis mutandis* to the council of the municipality. *New*.

Debentures

(4) A district school area board in territory without municipal organization may not apply to the Ontario Municipal Board in respect of the issue of debentures for a permanent

improvement until such issue has been sanctioned at a special meeting of the public school electors. 1971, c. 69, s. 3, *amended*.

Collection of taxes

(5) The board of a district school area may appoint a tax collector who has in that part of the district school area that is not a municipality the same powers in collecting the school rate or subscriptions, and is under the same liabilities and obligations and shall proceed in the same manner in the school section, as a township collector in collecting rates in a township. R.S.O. 1970, c. 385, s. 42 (1, 2); 1971, c. 69, s. 4, *amended*.

Return of arrears of taxes in unorganized territory

(6) The collector shall, on or before the 8th day of April in the year following the year in which a school rate becomes due and payable, make a return to the sheriff of the territorial district showing each lot or parcel assessed upon which the school rates have not been fully paid, the name of the person assessed as owner or occupant and the amount of school rates chargeable against the lot or parcel and in arrear at the date of the return with the year for which the rates so in arrear were imposed.

Entry in sheriff's book

(7) The sheriff shall enter in a book to be kept by him for that purpose the particulars furnished by the collector.

Payments of arrears thereafter

(8) The collector shall not receive any payment on account of school rates so in arrear after the expiration of two years from the date when the rates became due, but, in the case of payments made before the expiration of that period, the collector shall forthwith notify the sheriff thereof, and the sheriff shall enter the payment against the proper lot or parcel in the book kept by him.

When arrears to be paid to sheriff

(9) After the expiration of such period, all such arrears are payable to the sheriff, who shall enter all payments in the book kept by him and shall return the amount paid to the treasurer of the board.

Sale of land for arrears

(10) When it appears from the entries in the book kept by the sheriff that any school rate is in arrear for three years from the 31st day of December in the year in which the rate became payable, the sheriff shall proceed to collect the same by the sale of the lands assessed, and the procedure in relation to such sale and the provisions applicable to purchase by the municipality and to the redemption of lands thereafter and to deeds to be given by the sheriff to tax purchasers shall be the same, as nearly as may be, as in the case of the sale of lands for arrears of taxes in organized municipalities, and the board may in such cases exercise the power of purchase conferred upon a municipality.

Where tax arrears procedures of R.S.O. 1970, c. 118 in effect

(11) Where the tax arrears procedures under *The Municipal Affairs Act* are in effect in a district school area, it is not necessary for the collector to furnish to the sheriff any of the information or statements required under this section in respect of tax arrears, and the powers and duties of the sheriff in respect of tax arrears and tax sales do not apply in respect of the school section, and all the powers and duties of the sheriff in respect of tax arrears are vested in the treasurer of the board. R.S.O. 1970, c. 385, s. 42 (3-8), *amended*.

Rates for first year to be levied on current assessment

(12) In the first year that any territory without municipal organization is included in a district school area, the rates for that year shall be levied on the assessment of the property in such territory made for that year. R.S.O. 1970, c. 425, s. 3 (5), *amended*.

District school area to be inactive

66.—(1) Where the number of public school pupils of compulsory school age residing in a district school area is fewer than ten and the board has ceased to operate a school, the Minister may declare the district school area inactive as of the 31st day of December in any year. R.S.O. 1970, c. 385, s. 43 (1); 1973, c. 37, s. 5, *amended*.

Accounts in inactive area

(2) When a district school area is declared to be inactive, the board shall liquidate its assets, settle its accounts and have them audited, and forward to the Ministry the audited statement of accounts, the auditor's report and the balance of the funds for deposit in the Consolidated Revenue Fund.

Board dissolved

(3) If the Minister is satisfied that the board has carried out its duties under subsection 2 he shall dissolve the board and the district school area shall cease to exist as of the date that the district school area was declared inactive under subsection 1.

Records to be forwarded to Ministry

(4) The records of the dissolved board of the district school area shall be filed as the Minister may direct and, for the purposes of this Act, the pupils resident in such area shall be deemed not to reside in a school section. R.S.O. 1970, c. 385, s. 43 (2-4), *amended*.

Certain school sections to cease to exist

(5) Every inactive school section the board of which was dissolved prior to the 1st day of January, 1975 shall cease to exist on the 1st day of January, 1975. *New*.

Closing of school by Minister

(6) Where in any district school area there are for two consecutive years fewer than eight persons between the ages of five and fourteen years residing therein, the Minister may direct that the public school of the area shall no longer remain open, and the school shall thereupon be closed until the Minister otherwise directs. R.S.O. 1970, c. 385, s. 53 (3), *amended*.

Secondary Schools Outside School Divisions in Territorial Districts

67.—(1) The Lieutenant Governor in Council may establish any area in the territorial districts that is not part of a school division as a secondary school district and may discontinue or decrease or increase the area of any such secondary school district and, if any such secondary school district is discontinued, or the area is decreased or increased, the assets and liabilities of the board shall be adjusted or disposed of as determined by the Ontario Municipal Board. R.S.O. 1970, c. 425, s. 2 (1). In territorial districts

(2) Where a secondary school district is established under subsection 1, the Lieutenant Governor in Council may make regulations providing for, Board in territorial districts outside school divisions

(*a*) the formation and composition of a secondary school board;

(*b*) the apportionment of costs within the secondary school district; and

(*c*) the issuing of debentures by the board for permanent improvements,

and the board is a corporation by the name designated by the Lieutenant Governor in Council. R.S.O. 1970, c. 425, s. 3 (1), *amended*.

(3) The board shall exercise the powers and duties of a municipal council for that part of the secondary school district that comprises territory without municipal organization in respect of levying rates and collecting taxes for secondary school purposes, and the officers appointed by the board have the same powers and duties as similar officers in a municipality, and the expenses in connection therewith shall be raised by a levy imposed on the property rateable for secondary school purposes in such territory without municipal organization. R.S.O. 1970, c. 425, s. 3 (2, 4), *amended*. Powers and duties

(4) The provisions of sections 203 and 205 respecting auditors and estimates apply *mutatis mutandis* to the board of a secondary school district established under this section. Auditors and estimates

(5) Where a secondary school district established under this section includes a municipality, section 208 applies *mutatis mutandis* to the council of the municipality. Rates in municipality

(6) Subsections 5 to 12 of section 65 apply *mutatis mutandis* in respect of a secondary school district established under this section and to the board thereof. Collection of taxes

(7) The Lieutenant Governor in Council may establish a board of education for a secondary school district established under subsection 1, in which case the other provisions of this Board of education

section and subsections 5 and 6 of section 58 apply, *mutatis mutandis*, to the board of education for public school purposes and for secondary school purposes. R.S.O. 1970, c. 425, s. 2 (2), *amended*.

Boards on Tax Exempt Land

Public school on Crown lands

68.—(1) Where, in the opinion of the Minister, it is desirable to establish and maintain a public school board on lands held by the Crown in right of Canada or Ontario, or by an agency thereof, or on other lands that are exempt from taxation for school purposes, the Minister may by order designate any portion of such lands as a school section and may appoint as members of the board such persons as he considers proper, and the board so appointed is a body corporate by the name indicated in the order establishing the school section and has all the powers and duties of a divisional board for public school purposes. R.S.O. 1970, c. 385, s. 12 (1, 2), *amended*.

Secondary school on exempt land

(2) Where, in the opinion of the Minister, it is desirable to establish and maintain a secondary school board on lands held by the Crown in right of Canada or Ontario, or by an agency thereof, or on other lands that are exempt from taxation for school purposes, the Minister may by order designate any portion of such lands as a secondary school district, and may appoint as members of the board such persons as he considers proper, and the board so appointed is a corporation by the name indicated in the order establishing the secondary school district and has all the powers and duties of a divisional board for secondary school purposes.

Board of education on exempt land

(3) Where a secondary school district has been designated under subsection 2, the Minister may authorize the formation of a board of education for the district and may provide for the name of the board, its composition and the term or terms of office of the members thereof, and for all other purposes the provisions in respect of divisional boards apply to the board. R.S.O. 1970, c. 425, s. 4 (1, 2), *amended*.

Section not to be included in district school area or school division

(4) No school section or secondary school district designated under this section shall be included in a district school area or a school division. R.S.O. 1970, c. 385, s. 12 (3), *amended*.

Fee payable by non-resident

(5) Where a pupil attends a school that is operated by a board appointed under this section in a centre for the treatment of cerebral palsy, a crippled children's treatment centre, a hospital or a sanatorium and is not a resident pupil of such board, the board of which he is a resident pupil or is qualified to be a resident pupil shall pay to the board that operates the school a fee calculated under the regulations and, where he is not a resident pupil or qualified to be a resident pupil of a board and his cost of education is not payable by the Minister under the regulations, his parent or guardian shall

pay to the board that operates the school a fee fixed by such board, but such fee shall not be greater than the fee calculated under the regulations. R.S.O. 1970, c. 424, s. 3; 1971, c. 90, s. 10 (3, 4), *amended*.

Schools for Trainable Retarded Children

69.—(1) In sections 69 to 78, Interpretation

(*a*) "committee" means an advisory committee on schools for trainable retarded children;

(*b*) "divisional board" means a divisional board of education and includes The Metropolitan Toronto School Board;

(*c*) "local association" means a parent's group that is affiliated with the Ontario Association for the Mentally Retarded and that operates within the area of jurisdiction of the board;

(*d*) "school division" includes the Metropolitan Area as defined in *The Municipality of Metropolitan Toronto Act*; R.S.O. 1970, c. 295

(*e*) "trainable retarded child" means a child whose intellectual functioning is below the level at which he could profit from a special education program for educable retarded children.

(2) For the purposes of sections 69 to 78, The Metropolitan Toronto School Board shall be deemed to be organized as a divisional board on the 1st day of January, 1969. R.S.O. 1970, c. 425, s. 69, *amended*. Metropolitan Toronto School Board

70.—(1) Subject to subsection 2, every divisional board shall provide adequate accommodation for the trainable retarded children who reside in the school division and shall establish and maintain a school or class for the trainable retarded children who are admitted under section 75 and, except as provided in section 76, a school or class for trainable retarded children to which this Act applies may be operated only by a divisional board. Provision of adequate accommodation

(2) A divisional board may, in lieu of establishing and maintaining a school or class for trainable retarded children, enter into an agreement with another divisional board to provide for the instruction of the trainable retarded children who reside in the school division of the first-mentioned board in a school or class for trainable retarded children under the jurisdiction of the other board and for the payment of fees in respect of such pupils. *New*. Agreement with other divisional board

(3) Where a child referred to in subsection 2 is admitted to or excluded from a school or class for trainable retarded Admission deemed decision of sending board

children by the admissions board of the divisional board that operates the school or class, such admission or exclusion shall be deemed to be a decision of an admissions board for the board of the school division in which the child resides. R.S.O. 1970, c. 425, s. 73, *part*.

Right to attend school

71.—(1) Subject to section 75, a trainable retarded child whose parent or guardian resides in a school division has the right to attend a school or class for trainable retarded children established by the board of the school division or provided under an agreement made under subsection 2 of section 70.

Admission of other children

(2) Subject to section 75, a divisional board may admit to a school for trainable retarded children operated by the board a child who does not have the right to attend such school under subsection 1. R.S.O. 1970, c. 425, s. 77 (1, 2), *amended*.

Advisory committee

72.—(1) A divisional board shall establish an advisory committee on schools for trainable retarded children.

Composition

(2) The committee shall consist of six members, of which,

(*a*) three shall be appointed by the divisional board from among its members; and

(*b*) three shall be appointed by the local association, or where there is more than one local association, three shall be appointed at a joint meeting of the associations concerned or, where there is no local association, three who are not members of the board shall be appointed by the board.

Qualifications of members

(3) The members of the committee appointed by the local association or associations shall have the qualifications required for the members of the divisional board.

Term of office

(4) The members of the committee shall hold office until the expiry of the term for which the members of the divisional board were elected.

Vacancies

(5) Every vacancy on a committee occasioned by death, removal or other cause shall be filled by appointment by the divisional board or the local association or associations, as the case may be, of some qualified person, and every person so appointed shall hold office for the unexpired portion of the term of the member whose office has become vacant. R.S.O. 1970, c. 425, s. 73, *amended*.

Allowance

(6) The divisional board may pay to each member of the committee who is not a member of the divisional board an allowance in accordance with subsection 1 of section 164,

except that the maximum allowance shall be based upon the enrolment in schools or classes for trainable retarded children and subsection 5 of the said section 164 applies *mutatis mutandis* to such member. R.S.O. 1970, c. 425, s. 73 (6).

Quorum

73.—(1) A majority of the members of the committee is a quorum, and a vote of a majority of the members present at a meeting is necessary to bind the committee.

Chairman

(2) The members of the committee shall, at their first meeting, elect one of themselves as chairman who shall preside at all meetings and, if at any meeting the chairman is not present, the members present may elect a chairman for that meeting.

Chairman voting

(3) On every motion, the chairman may vote with the other members of the committee, and any motion on which there is an equality of votes is lost.

Personnel and services available to committee

(4) The divisional board shall make available to the committee such personnel and services as the divisional board considers necessary for the proper functioning of the committee. R.S.O. 1970, c. 425, s. 74.

Powers of committee

74.—(1) The committee may make recommendations to the divisional board relating to matters affecting the establishment and development of programs, services and facilities in respect of trainable retarded children.

Right of committee to be heard

(2) Before making a decision on a recommendation of the committee, the divisional board shall provide an opportunity for the committee to be heard before the board and before any committee thereof to which the recommendation is referred. R.S.O. 1970, c. 425, s. 75, *amended*.

Admission or exclusion by admissions board

75.—(1) A child may be admitted to or excluded from a school or class for trainable retarded children operated by a divisional board only upon the decision of an admissions board consisting of,

(*a*) the principal in charge of the school or class for trainable retarded children;

(*b*) a legally qualified psychiatrist or other legally qualified medical practitioner appointed by the board;

(*c*) a supervisory officer designated by the divisional board that operates the school or, where such divisional board has not appointed a supervisory officer, a provincial supervisory officer designated by the Minister; and

(*d*) where all or part of the municipality in which the school is located is in a separate school zone, a supervisory officer designated by the separate school board having jurisdiction in such zone and, where such separate school board has not appointed a supervisory officer, a provincial supervisory officer designated by the Minister,

and the divisional board shall establish the procedures to be followed by the admissions board in respect of admission to or exclusion from a school or class for trainable retarded children, but such procedures shall provide for the parent or guardian of the child to make representations to the admissions board. R.S.O. 1970, c. 425, s. 77 (6); 1973, c. 91, s. 6, *amended*.

Chairman of admissions board

(2) The principal of the school to which the child seeks admission shall be the chairman of the admissions board. R.S.O. 1970, c. 425, s. 77 (7).

Operation of school for trainable retarded by board not in school division

76.—(1) Where all or part of a Roman Catholic separate school zone is situate in a district school area and the total enrolment of the pupils in the public schools in such area and in the separate schools in such zone exceeds 300, the public school board, with the approval of the Minister, may establish and operate a school or class for trainable retarded children and, except as otherwise provided in this section, sections 70, 71, 72, 73, 74, 75, 77 and 78 apply *mutatis mutandis* in respect of such school or class.

Advisory committee

(2) Notwithstanding subsection 2 of section 70, the board that operates a school or class for trainable retarded children under subsection 1 shall establish an advisory committee for trainable retarded children consisting of,

(*a*) two members appointed by such board from among its members;

(*b*) one member appointed by the board of the separate school zone referred to in subsection 1 from among its members; and

(*c*) two members appointed by the local association or, where no local association has been established, two members appointed by the board that operates the school or class, who shall not be members of such board. 1972, c. 136, s. 6, *amended*.

Fees for non-resident pupils

77.—(1) Where a divisional board provides instruction in a school or class for trainable retarded children for a pupil whose parent or guardian does not reside in the school division, the board of the school division or secondary school district

in which his parent or guardian resides, shall pay to the divisional board on behalf of the pupil a fee calculated in accordance with the regulations.

Fees where residence in school section and separate school zone

(2) Where a divisional board provides instruction in a school or class for trainable retarded children for a pupil whose parent or guardian does not reside in a school division or a secondary school district but does reside in a school section or in a separate school zone, the board of the school section or separate school zone of which the parent or guardian is a supporter shall pay to the divisional board on behalf of the pupil a fee calculated in accordance with the regulations.

Admission of child resident on tax-exempt lands

(3) Where a child is admitted to a school or class for trainable retarded children but his parent or guardian is resident on lands that are exempt from taxation for school purposes and that have been designated by the Minister as a school section for which a board has been appointed under subsection 1 of section 68 or that have been designated a secondary school district for which a board has been appointed under subsection 2 of section 68, the board shall pay to the divisional board a fee calculated in accordance with the regulations. R.S.O. 1970, c. 425, s. 78, *amended*.

Boarding of pupils where daily transportation impracticable

78.—(1) Where a pupil resides in a school division with his parent or guardian in a residence from which daily transportation to a school or class for trainable retarded children that he has a right to attend is impracticable due to distance or terrain as certified by the appropriate supervisory officer of the school division in which the pupil resides, the board of the school division in which his parent or guardian resides may reimburse the parent or guardian at the end of each month for the cost of providing for such pupil, board, lodging, and transportation once a week from his residence to the school or class and return, in an amount set by the board for each day of attendance as certified by the principal of the school or class for trainable retarded children that the pupil attends.

Idem

(2) Where a pupil resides in a school section or in a separate school zone, but not in a school division, with his parent or guardian in a residence from which daily transportation to the school or class for trainable retarded children that he attends is impracticable due to distance or terrain as certified by the supervisory officer who has jurisdiction in the school section or separate school zone, the board of the school section or of the separate school zone of which his parent or guardian is a supporter may reimburse the parent or guardian at the end of each month for the cost of providing for such pupil, board, lodging, and transportation once a week from his residence to the school or class and return, in an amount set by

the board for each day of attendance as certified by the principal of the school or class for trainable retarded children that the pupil attends.

Idem

(3) Where a pupil resides in a territorial district, but not in a school division, school section or separate school zone, with his parent or guardian in a residence from which daily transportation to the school or class for trainable retarded children that he attends is impracticable due to distance or terrain as certified by the supervisory officer of the divisional board of the school that he attends, the divisional board may reimburse the parent or guardian at the end of each month for the cost of providing for such pupil, board, lodging, and transportation once a week from his residence to the school or class and return, in an amount set by the board for each day of attendance as certified by the principal of the school or class for trainable retarded children that the pupil attends. R.S.O. 1970, c. 425, s. 79, *amended*.

Certification of attendance

(4) For the purpose of certifying attendance under subsections 1, 2 and 3, the principal may add to the number of days of attendance of a pupil the number of days the pupil is absent by reason of being ill or is absent for any other cause if the principal is of the opinion that the absence was unavoidable. *New*.

PART IV

ROMAN CATHOLIC SEPARATE SCHOOLS

Application of Part

79. This Part applies to separate schools for Roman Catholics now or hereafter established and shall have the same effect as if this Part were a special Act respecting separate schools for Roman Catholics. R.S.O. 1970, c. 430, s. 16, *amended*.

Zones

Boundaries of zones

80.—(1) The boundaries of separate school zones shall be determined in relation to their centres.

Centre of zone

(2) Where a board operates a separate school, the centre of the separate school zone is the most northern corner astronomically of the site of the separate school provided that, where the most northern boundary of the site has a bearing due west astronomically, the corner of the site at the western extremity of the most northern boundary is the centre.

Centres where two or more schools

(3) Where a board operates two or more separate schools, there shall be a centre for each school.

(4) Where a board does not operate a school but owns one parcel of land, for the purpose of determining the centre of the separate school zone, the board shall be deemed to operate a school on such parcel of land.

Centre where board owns land but does not operate school

(5) Where a board does not operate a separate school or own a parcel of land, a parcel of land approved by the supporters for the purpose of determining the centre of the zone shall be deemed to be the site of a separate school for such purpose, and the board shall notify the Minister, the clerks of the municipalities concerned and the chief executive officers of the divisional boards or the secretaries of public school boards affected, before the 30th day of September of the year in which the parcel was so approved.

Centre where board does not operate school or own site

(6) The centres of a combined separate school zone are the centres determined in respect of each school site on which a school is operated and include the centre of each former zone that became part of the combined separate school zone and in which a separate school is not operated.

Centres of combined zone

(7) Subject to section 82, every parcel of land that is wholly or partly within a radius of three miles from a centre of a separate school zone is within the zone.

Rural and combined separate school zone

(8) Subject to section 82, where a separate school board is established in an urban municipality, the urban separate school zone includes the urban municipality and any parcel of land that is within,

Urban separate school zone

(*a*) a township; or

(*b*) an urban municipality in which a separate school zone has not been established,

and that is within a radius of three miles from a centre in the urban municipality.

(9) A separate school zone, except a combined separate school zone, shall not include land in a municipality as well as land in territory without municipal organization. R.S.O. 1970, c. 430, s. 54 (1-8, 10), *amended*.

Zones not to include organized and unorganized territory

81.—(1) For each separate school zone that includes part or all of a township or territory without municipal organization, the appropriate separate school supervisory officer shall,

Maps and descriptions of zones

(*a*) prepare maps of each township in which part or all of a separate school zone is located showing the boundary of each separate school zone therein or partly therein;

(*b*) describe each zone by indicating the name of the board, the centre of the zone, and the municipalities wholly or partly within the zone;

(*c*) where the boundary of a zone is altered, prepare a revised map and description;

(*d*) sign and date the original maps and description of each zone and retain them on file; and

(*e*) furnish,

(i) to each separate school board, a map or description of its zone,

(ii) to the township clerk and assessor or assessment commissioner, a map showing the zone boundaries and a description of each zone, and

(iii) to the chief executive officer of a divisional board or the appropriate supervisory officer for a public school board affected, a description of each separate school zone within the area of his jurisdiction.

Establishment of separate school in a portion of rural section

(2) Where a separate school has been established in a school section that includes an urban municipality or a portion of an urban municipality, and a township or a portion of a township, and a majority of the ratepayers assessed as separate school supporters in the township or portion of a township petition the board of the separate school to notify the supervisory officer of separate schools that the separate school supporters in the township or portion of a township are desirous of establishing a separate school therein, the supervisory officer may signify in writing to the board his approval of the establishment of the separate school, and thereupon a meeting may be held for the establishment of a separate school and the election of trustees, and the school may be established and trustees may be elected in the manner provided in section 83.

Arbitrate assets and liabilities

(3) Where a separate school zone is established and the boundaries of adjoining separate school zones are thereby altered, the board concerned shall, in the manner provided in subsection 5, appoint a board of arbitrators who shall determine the assets and liabilities of the boards and the amounts, if any, that shall be paid by one board to the other board, and the award of the board of arbitrators is final and binding.

Rates in unorganized territory in combined zone

(4) Where a combined separate school zone includes a former zone in territory without municipal organization and a former zone in a municipality, the combined separate school board is

responsible for the levying and collecting of rates for separate schools in the territory without municipal organization and the board and the council of the municipality may enter into an agreement providing for the officers of the municipality to levy and collect rates for separate schools in such territory without municipal organization. R.S.O. 1970, c. 430, s. 54 (11-13), *amended*.

Constitution of board of arbitrators

(5) The appropriate supervisory officer, a person chosen by the newly established board and a person chosen by each of the separate school boards, the boundaries of which have been altered, shall constitute a board of arbitrators. R.S.O. 1970, c. 430, s. 37 (2), *amended*.

Boundaries where zones overlap

82.—(1) Where two or more separate school zones would otherwise overlap in a township or in territory without municipal organization, the appropriate supervisory officers shall, after they have consulted with the boards involved, determine a boundary between each of the zones in the township or territory. R.S.O. 1970, c. 430, s. 55 (1).

Failure to make determination

(2) Where more than one supervisory officer is involved in the determination under subsection 1, and the supervisory officers fail to make a determination, the matter shall be referred to the judge by the board concerned that has the greatest equalized assessment for separate school purposes. *New*.

When alteration effective

(3) A boundary in the overlapping area may be altered before the 1st day of July in any year, and such alteration shall be effective on the 1st day of January of the following year, except that, for the purposes of the election of trustees, it shall be deemed to be effective on the day of nomination for trustees.

Appeal

(4) A separate school board or a separate school supporter affected by the determination of the supervisory officer may appeal the determination to the judge before the 1st day of August following the determination.

All parts of zone to be adjoining

(5) The boundaries of a separate school zone as determined by the supervisory officer or altered by a judge shall follow one continuous line so that all parts of the zone are adjoining.

Effect of change in boundaries

(6) Where a change in the boundary of a separate school zone under this section results in the transfer of a parcel of land from one zone to another zone, the taxes levied and collected for separate school support in respect of such parcel of land, in the year following the determination by the supervisory officer or judge, shall be paid to the separate

school board of the zone to which the parcel of land is transferred. R.S.O. 1970, c. 430, s. 55 (2-5).

Formation and Discontinuance of Zones

Meeting to establish separate school zone

83.—(1) Not fewer than five heads of families, being Roman Catholics and being householders or freeholders resident within a city, town, village, or a six-mile square area in one or more townships and not within an area designated by the regulations made under subsection 2 of section 103, may convene a public meeting of persons desiring to establish a separate school zone with centre therein. 1972, c. 76, s. 3, *amended*.

Procedure

(2) Where such a meeting is held, the persons present shall,

(*a*) elect a chairman and a secretary for the meeting;

(*b*) pass a motion determining the centre of the separate school zone to be established;

(*c*) where the zone to be established is in one or more townships, subject to clause *b* of subsection 5, select a name for the board;

(*d*) elect the required number of trustees; and

(*e*) require the chairman of the meeting to transmit notice in writing of the holding of the meeting and of the election of trustees to the clerks of the municipalities and to the chief executive officer of the divisional board or the secretary of the public school board, as the case may be, for the area in which the separate school zone is to be established designating by name and residence each of the persons elected as trustees. R.S.O. 1970, c. 430, s. 20 (1); 1972, c. 76, ss. 4 (1), *part*, 28, *part*, *amended*.

Certification

(3) Each of the officers receiving the notice shall certify thereon the date of its receipt, and shall transmit a copy of the notice so certified to the chairman of the meeting. *New*.

Notification

(4) The chairman of the meeting shall forthwith transmit the copy of the certified notice, a copy of the minutes of the meeting, and of the notice calling it, to,

(*a*) the Minister; and

(*b*) the appropriate assessment commissioner. 1972, c. 76, s. 4 (1), *part*, *amended*.

Corporate name

(5) On and after the transmission to the Minister of the

documents referred to in subsection 4, the separate school zone is established and the trustees named therein are a body corporate under the name,

(*a*) in the case of a city, town, or village, "The..... Roman Catholic Separate School Board" (*inserting the name of the city, town, or village, as the case may be*); or

(*b*) in the case of a portion of one or more townships, "The.....Roman Catholic Separate School Board" (*inserting the name selected under clause c of subsection 2 and approved by the Minister*). R.S.O. 1970, c. 430, s. 21 (3), *amended*.

In urban municipalities in wards

(6) Where a meeting is convened to establish a separate school in an urban municipality that is divided into wards, unless at such a meeting a motion is passed to elect trustees by wards in accordance with section 91, the trustees shall be elected by general vote. R.S.O. 1970, c. 430, s. 20 (2).

Formation not rendered invalid by reason only of vacancy in office of trustee

(7) The formation of a separate school is not rendered invalid by reason only of a vacancy in the office of a trustee occurring before the trustees become a body corporate, provided that the vacancy is filled forthwith and the Minister is provided with the information required under clause *e* of subsection 2 in respect of the filling of the vacancy.

Roman Catholic deemed separate school elector

(8) For the purpose of qualifying to be elected as a trustee at a meeting to establish a separate school zone, a Roman Catholic who is otherwise qualified under subsection 1 of section 192 is deemed to be a separate school elector. *New*.

New zone in unorganized territory

84.—(1) Not fewer than,

(*a*) ten heads of families; or

(*b*) where the zone is to be united, effective on the 1st day of January in the following year, with one or more separate school zones to form a combined separate school zone, five heads of families,

being Roman Catholics and being householders or freeholders resident within territory without municipal organization that is not within an area designated by the regulations made under subsection 2 of section 103 may convene a public meeting of persons desiring to establish a separate school zone therein, and the provisions of subsections 2, 3, 4 and 8 of section 83 apply *mutatis mutandis*.

Corporate name

(2) On and after the transmission to the Minister of the documents referred to in subsection 4 of section 83, the

separate school zone is established and the trustees named therein are a body corporate under the name of, "The .....Roman Catholic Separate School Board" (*inserting the name selected under clause c of subsection 2 of section 83 and approved by the Minister*).

Powers of trustees

(3) The trustees elected at a meeting convened under subsection 1 have all the powers of a public school board in territory without municipal organization and are in all other respects subject to the provisions of this Act that apply to rural separate school boards.

Where school not united

(4) Where in any year a separate school zone is established by not fewer than five heads of families under clause *b* of subsection 1, the public meeting for the election of trustees shall be held before the 1st day of June in that year, and the only powers and duties of the separate school board so formed are to proceed in the same year to implement the provisions of section 87, and if the separate school zone is not united with one or more separate school zones to form a combined separate school zone before the 1st day of August in that year under section 87, the board is dissolved on that date. R.S.O. 1970, c. 430, s. 22 (1-3); 1972, c. 76, s. 5, *amended*.

Right to vote in year of establishment of zone

85. A Roman Catholic who is a householder or freeholder and of the full age of eighteen years and who desires to establish a separate school zone under section 83 or 84 is entitled, in the year in which the separate school zone is established, to vote on any matter relating to such separate school if,

(*a*) in the case of a separate school zone in one or more townships or in territory without municipal organization, he resides in the separate school zone; or

(*b*) in the case of an urban municipality, he resides in the municipality. R.S.O. 1970, c. 430, s. 24; 1971, c. 98, s. 4, Sched., par. 31, *amended*.

Legislative grants

86. On receipt by the Minister of the documents required under section 83 or 84 that a separate school zone has been established and suitable accommodation provided for school purposes, the Minister may pay to the board out of the appropriation made by the Legislature for public and separate schools such sums as may be approved by the Lieutenant Governor in Council. R.S.O. 1970, c. 430, s. 22 (4), *amended*.

Formation of combined separate school zones in non-designated areas

87.—(1) A separate school board or five supporters of a separate school that is not within an area designated by the regulations made under subsection 2 of section 103 may,

before the 1st day of July in any year, hold a meeting of the supporters of such separate school to consider the question of uniting the separate school zone with one or more other separate school zones in such area to form a combined separate school zone and, where the majority of such supporters present at each such meeting who vote on the question, vote in favour of the union and of the adjustments referred to in subsection 2, each such board shall give notice of the decision, before the 1st day of August of the same year, to the Minister, the clerks of the municipalities affected, and the appropriate municipal assessors, and the combined separate school zone thus formed shall be deemed to be one zone for all Roman Catholic separate school purposes on the 1st day of January of the following year, except that, for the purposes of the election of trustees, it shall be deemed to be one zone on the day of nomination for trustees of the combined separate school board.

Adjustment of rights

(2) In order to adjust the rights and claims of the combining boards, the supporters of any school may offer to assume and may assume a differential in rates for a stated period of time.

Dissolution of boards

(3) When a combined separate school zone is formed, the board of each zone forming part of the union is dissolved, and all the real and personal property vested in such board is vested in the board of the combined separate school zone.

Corporate name of trustees

(4) The trustees of a combined separate school board are a corporation by the name of "The.....Combined Roman Catholic Separate School Board" (*inserting the name selected by the board and approved by the Minister*). R.S.O. 1970, c. 430, s. 34 (1-4), *amended*.

Detaching school zone from combined school zone

88.—(1) Where, in an area not designated by the regulations made under subsection 2 of section 103, a petition of ten heads of families, being householders or freeholders who are supporters of a combined separate school, to detach a separate school zone from the combined separate school zone is submitted in any year to the combined separate school board, the board shall provide for a vote on the question within ninety days of the receipt of the petition.

Qualified voters detaching a separate school zone from a combined separate school zone

(2) The persons entitled to vote on the question are the supporters of the combined separate school who reside closer to the centre in the portion of the combined separate school zone that it is proposed to detach than any other centre.

When school zone detached

(3) If, before the 1st day of July in any year, a majority of the supporters who are entitled to vote on the question vote in favour of detaching the zone it is detached on the

1st day of January of the following year, except that, for the purposes of the election of trustees, it shall be deemed to be detached on the day of nomination for trustees, and the requisite number of trustees of the separate school zone so detached shall be elected as provided in section 90 or 100, as the case may be.

Adjustment of assets, etc.

(4) Where a zone or zones is or are detached under this section, subsection 5 of section 81 applies *mutatis mutandis*, except that the combined separate school board and the board or boards of the zone or zones detached shall each appoint an arbitrator. R.S.O. 1970, c. 430, s. 35, *amended*.

Dis-continuing board by a vote of the supporters

89.—(1) In an area not designated by the regulations made under subsection 2 of section 103, a separate school board or five supporters of such board may, before the 1st day of July in any year, hold a meeting of the separate school supporters to consider the question of discontinuing the separate school board and, where the majority of the supporters vote in favour of discontinuing and fewer than five supporters vote in opposition, the board shall within thirty days notify the Minister, the clerk of each municipality concerned and the secretary of any school board that may be affected thereby and, for assessment purposes, the zone shall be discontinued on the 30th day of September following the meeting.

Other conditions under which a separate school board is dis-continued

(2) A separate school board is discontinued on the 31st day of December in any year,

(*a*) if, for any school term after the year in which the board was established the board,

(i) fails to operate a school, or

(ii) fails to make an agreement with another separate school board for the education of its pupils and fails to provide transportation for the pupils who would otherwise be excused from attendance under clause *c* of subsection 2 of section 20; or

(*b*) if no one is assessed as a separate school supporter in the separate school zone in relation to property in respect of which taxes are to be levied in the following year; or

(*c*) if the supporters fail to elect the required number of trustees in two successive regular elections.

Supervisory officer to notify Minister, etc.

(3) When a board is discontinued under subsection 2, the appropriate supervisory officer for separate schools shall forthwith notify the Minister, the clerks of the munici-

palities concerned and the secretaries of the public school boards affected thereby.

Settling accounts

(4) The trustees who are in office in the year in which the board is discontinued under this section shall remain in office for the purpose of settling the accounts and outstanding debts of the board and, following an audit by a person licensed by the Ministry of Treasury, Economics and Intergovernmental Affairs as a municipal auditor, shall forward the balance of its funds to the Minister for deposit in the Consolidated Revenue Fund for safekeeping.

Records

(5) The records of a board that has been discontinued under this section shall be filed with the Ministry.

Boundaries to be revised

(6) The boundaries of the zones that are altered as a result of discontinuing a separate school zone shall be revised by the appropriate supervisory officer.

Sale of real property

(7) Where a board that has been discontinued fails to dispose of its real property in the year in which it was discontinued and the appropriate separate school supervisory officer is notified that an offer to purchase the real property has been made, he shall cause notices to be posted to call a meeting of the persons who were supporters in the year in which the board was discontinued to elect three persons who, when elected, are a board for the purpose of selling the property.

Deposit of funds from sale

(8) When the board has sold the real property, it shall, after paying any outstanding debts, forward the balance of the money received from the sale to the Minister for deposit in the Consolidated Revenue Fund for safekeeping.

Re-establishing a board

(9) A separate school board that has been discontinued in any year may, in any subsequent year, be re-established in the manner provided in section 83 or 84, and the funds that were deposited by the board that was discontinued shall be returned to the board. R.S.O. 1970, c. 430, s. 56, *amended*.

Urban Separate Schools

Continuance of urban separate school zones

90.—(1) Urban separate school zones in existence on the 1st day of January, 1972 are hereby continued and are subject to the provisions of this Act. *New*.

Election of trustees in urban municipalities by general vote

(2) Except as provided in section 91, the trustees of an urban separate school board shall be elected by general vote for a term of two years. R.S.O. 1970, c. 430, s. 38 (1); 1972, c. 76, s. 7.

Number of trustees

(3) The number of trustees on an urban separate school board shall be determined by the population of the municipality as follows, where the population was,

(*a*) less than 10,000, six trustees;

(*b*) 10,000 or more but less than 50,000, eight trustees;

(*c*) 50,000 or more but less than 100,000, ten trustees;

(*d*) 100,000 or more, twelve trustees.

Change in number of trustees

(4) Where it becomes evident from the census of a municipality that the number of trustees on an urban separate school board should be increased or decreased, at the next election of trustees the proper number of trustees shall be elected. R.S.O. 1970, c. 430, s. 38 (2, 3).

Urban municipality divided into wards

91.—(1) An urban separate school board for an urban municipality that is divided into wards may be composed of two trustees for each ward, elected by the separate school electors of that ward for a term of two years. R.S.O. 1970, c. 430, s. 39 (1); 1972, c. 76, s. 8.

Where five or more wards

(2) An urban separate school board for an urban municipality that is divided into five or more wards may be composed of one trustee for each ward, elected by the separate school electors of that ward for a term of two years.

Change from election by wards to general vote

(3) The composition and election of an urban separate school board that is elected as provided in subsection 1 or 2 may be changed to that provided in section 90. R.S.O. 1970, c. 430, s. 39 (2, 3).

Method of changing composition and election of board

92.—(1) The composition and election of an urban separate school board for an urban municipality that is divided into wards may be changed from the composition and election mentioned in any one of the subsections in section 91 to that provided in any other subsection in that section, provided that the resolution of the board for a change has been submitted to the electors of the separate schools of the urban municipality and has received the affirmative vote of a majority of the electors who voted on the resolution.

Election of new board after change

(2) At the election following an affirmative vote of a majority of the separate school electors who voted on the resolution, the proper number of trustees shall be elected, and the trustees then in office shall continue in office until their successors are elected and the new board is organized.

(3) A change in the method of election of an urban separate school board may not be made unless the board has been elected by the existing method for at least the two preceding regular elections. R.S.O. 1970, c. 430, s. 40, *amended*.

Limitation on changing method of election

93.—(1) The election of trustees of an urban separate school board shall be conducted in the same manner as municipal elections. R.S.O. 1970, c. 430, s. 44 (1), *amended*.

Conduct of elections

(2) In urban municipalities every person who is a separate school elector is entitled to vote at the election of trustees of the separate schools. R.S.O. 1970, c. 430, s. 46, *amended*.

Election of trustees, who may vote

94. *The Municipal Elections Act, 1972* applies *mutatis mutandis* to the election of trustees of an urban separate school board, except that the oath to be taken by a voter shall be:

Application and form of oath
1972, c. 95

> You swear that you are the person named (*or* intended to be named) in the list of voters now shown to you (*showing the list to the voter*).
>
> That you are of the full age of eighteen years;
>
> That you are a Roman Catholic separate school elector;
>
> That you have not voted before at this election;
>
> That you have not, directly or indirectly, received any reward or gift and do not expect to receive any for the vote which you tender at this election;
>
> So help you God.

R.S.O. 1970, c. 430, ss. 44 (4) (*e*), 45; 1971, c. 98, s. 4, Sched., par. 31; 1972, c. 76, s. 10 (2), *amended*.

95. Notwithstanding the provisions of this or any other Act, including *The Metropolitan Separate School Board Act, 1953*, a Roman Catholic who is not an owner or tenant as defined in *The Municipal Elections Act, 1972* but who,

Residents other than supporters entitled to vote
1953, c. 119

(*a*) is a Canadian citizen or other British subject;

(*b*) is of the full age of eighteen years; and

(*c*) resides within a separate school zone,

and who wishes to be a separate school elector at an election may cause his name to be entered on the preliminary list of electors of the polling subdivision in which he resides as a separate school elector, and for such purpose is entitled to be enumerated as such and to have entered opposite his name on the preliminary list of electors for the polling subdivision in which he resides that he is a separate school elector and,

where the name of such person appears on the polling list, he shall be deemed to be a separate school elector for the purpose of voting at such election. 1972, c. 76, s. 11.

Where person residing out of urban municipality to vote

96. When a supporter of a separate school in an urban municipality resides outside the municipality, he is entitled to vote in the ward or polling subdivision in which the separate school nearest to his residence is situate. R.S.O. 1970, c. 430, s. 57.

Rural Separate Schools

Trustees' term of office

97.—(1) The board of a rural separate school shall consist of three trustees who, subject to subsection 3, shall be elected in the year 1974 and in every second year thereafter and shall hold office for two years and until their successors are elected and the new board is organized. R.S.O. 1970, c. 430, s. 26, *amended*.

Term of office

(2) All trustees of a rural separate school board who hold office when the new board is organized in the year 1974 shall cease to hold office on the 31st day of December, 1974.

Where first election held in 1975

(3) Where the first election of a newly-established board is held in 1975 or in any second year thereafter, the trustees elected in such year shall hold office for one year and until their successors are elected and the new board is organized. *New*.

Organization and quorum

(4) A majority of the trustees is a quorum, and the board shall be organized by the election of a chairman and by the appointment of a secretary and a treasurer or of a secretary-treasurer. R.S.O. 1970, c. 430, s. 30.

Regularity

(5) No act or proceeding is valid that is not adopted at a regular or special meeting of the board of which notice has been given as required under section 98 and at which at least two trustees are present. R.S.O. 1970, c. 430, s. 31.

Electors, qualifications

(6) Every householder or freeholder of the full age of eighteen years, who is a Canadian citizen or other British subject and who is a supporter of a rural separate school, is entitled to vote at any election for school trustee or on any school question at any annual or special meeting of the supporters of the school. R.S.O. 1970, c. 430, s. 28 (1); 1971, c. 98, s. 4, Sched., par. 31, *amended*.

Idem

(7) Every person who is a Roman Catholic and is the spouse of a supporter of a rural separate school who is entitled to vote under subsection 6, and where elections are held under *The Municipal Elections Act, 1972*, every person who is a separate school elector in the area of jurisdiction of the

1972, c. 95

board of such school, is entitled to vote at the election of trustees of such school and on any question submitted to a meeting of the supporters, except a question involving the selection of a school site or an expenditure for a permanent improvement. R.S.O. 1970, c. 430, s. 28 (2), *amended*.

98.—(1) It is the duty of every rural separate school board and it has power, Duties of rural boards:

(*a*) to appoint the place of each annual school meeting of the supporters of the school, and the time and place of any special meeting for, time and place of meetings

(i) filling any vacancy in the board,

(ii) the selection of a new school site,

(iii) the appointment of a school auditor, or

(iv) any other school purpose,

and to cause notices of the time and place and of the objects of such meetings to be posted in three or more public places of the neighbourhood in which the school is situate at least six days before the time of holding the meeting;

(*b*) to cause to be prepared and read at the annual school meeting a report for the year then ending, containing among other things a summary of the proceedings of the board during the year, together with a full and detailed account of the receipts and expenditures of all school moneys during such year, and signed by the chairman and by one or both of the school auditors. R.S.O. 1970, c. 430, s. 50 (3) (*a*, *c*). annual report

(2) Where a rural separate school board neglects or the supporters at an annual or special meeting neglect to appoint an auditor, or an auditor appointed refuses or is unable to act, the Minister, upon the request in writing of any five supporters of the school, may make the appointment. R.S.O. 1970, c. 430, s. 33, *amended*. Appointment of auditor by the Minister

99.—(1) A separate school board in territory without municipal organization may appoint a person, who may be one of the trustees, to collect the rates imposed upon the supporters of the school or the sums that the inhabitants or others have subscribed or a rate-bill imposed upon any person and may pay to the collector at the rate of not less than 5 Appointment of collector

and not more than 10 per cent on the money collected by him, and every collector shall give such security as may be required by the board.

Powers and duties of collectors

(2) Every collector has the same powers in collecting the school rate, rate-bill or subscription and is under the same liabilities and obligations and shall proceed in the same manner as a township collector in collecting rates in a township and subsections 6, 7, 8, 9 and 10 of section 65 apply *mutatis mutandis*. R.S.O. 1970, c. 430, s. 22 (5, 6), *amended*.

Annual meeting

100.—(1) A meeting of the supporters of a rural separate school for the purpose of electing trustees and for any other school purpose shall be held annually on the last Wednesday in December or, if that day is a holiday, on the next day following, commencing at the hour of 10 o'clock in the forenoon, or if the board by resolution so directs, at the hour of 1 o'clock or 8 o'clock in the afternoon, at such place as the board by resolution determines or, in the absence of such resolution, at the separate school.

Idem

(2) Where the annual meeting of supporters of the school cannot conveniently be held as provided for in subsection 1, the supporters, at a regular meeting or at a special meeting called for that purpose, may pass a resolution naming another day for the holding of the annual meeting, which shall be held on that day in each year thereafter until some other day is similarly named.

Organization of meeting

(3) The supporters of the school present at the meeting shall elect one of themselves to preside over its proceedings and shall also appoint a secretary who shall record the proceedings of the meeting and perform such other duties as are required of him by this section.

Order of business

(4) The business of the meeting may be conducted in the following order,

(*a*) receiving and dealing with the annual report of the trustees;

(*b*) receiving and dealing with the annual report of the auditors;

(*c*) appointing one or more auditors for the current year;

(*d*) electing a trustee or trustees to fill any vacancy or vacancies; and

(*e*) miscellaneous business.

(5) The presiding officer shall submit all motions to the meeting in the manner desired by the majority, and is entitled to vote on any motion, and, Duties of presiding officer

(*a*) in the case of an equality of votes with respect to the election of two or more candidates, the presiding officer shall provide for drawing lots to determine which of the candidates is elected; and

(*b*) in the case of an equality of votes on a motion, the motion is lost.

(6) Where a poll is demanded by two supporters of the school at a meeting for the election of a trustee, the presiding officer shall forthwith grant the poll. Granting poll and proceedings in case of a poll

(7) Where a poll is granted, the secretary shall enter in a poll book the name and residence of each qualified supporter of the school offering to vote within the time prescribed and shall furnish him, at the time of voting, with a ballot paper on the back of which he has placed his initials, and shall provide a pencil for the marking of the ballot paper. Entries in poll book

(8) Ballot papers shall be pieces of plain white paper of uniform size. Form of ballot paper

(9) A voter shall mark his ballot, Marking of ballot paper

(*a*) in the election of a trustee, by marking the name of the trustee thereon; and

(*b*) on a question, by marking the word "for" or "against" thereon.

(10) Each voter shall mark his ballot paper in a compartment or other place provided for the purpose that is so arranged that the manner in which he marks his ballot is not visible to other persons and shall thereupon fold it so that the initials of the secretary can be seen without opening it and hand it to the secretary who shall, without unfolding it, ascertain that his initials appear upon it and shall then in full view of all present, including the voter, place the ballot in a ballot box or other suitable container that has been placed and is kept upon a table for the purpose. Manner of voting

(11) Every candidate may appoint a person to act as his scrutineer during the election. R.S.O. 1970, c. 430, s. 29 (1-11), *amended*. Appointment of scrutineer

Declaration where right to vote objected to

(12) When an objection is made to the right of a person to vote at an annual or special meeting, either for trustee or upon a school question, the presiding officer shall require the person whose right to vote is objected to to make the following declaration, whereupon the person making the declaration is entitled to vote:

I, ..., declare,

(*a*) that I am a Roman Catholic and a householder or freeholder assessed to the support of ..... ; or
(*insert name of board*)

(*b*) that I am a Roman Catholic and the spouse of a supporter of ..... ; and
(*insert name of board*)

(*c*) that I am of the full age of eighteen years; and

(*d*) that as such supporter or spouse of a supporter I have the right to vote at this meeting.

R.S.O. 1970, c. 430, s. 29 (12); 1971, c. 98, s. 4, Sched., par. 31, *amended*.

When poll shall close

(13) The poll shall not close before noon, but shall close at anytime thereafter when a full hour has elapsed without any vote being polled, and shall not be kept open later than 4 o'clock in the afternoon.

Polling at afternoon meetings

(14) When the meeting is held at 8 o'clock in the afternoon the supporters present may decide by resolution that the polling shall take place forthwith or at 10 o'clock on the following morning, and if it takes place forthwith the poll shall close when ten minutes have elapsed without any vote being recorded.

Counting votes, tie vote

(15) When the poll is closed, the presiding officer and secretary shall count the votes polled for the respective candidates or affirmatively and negatively upon the question submitted, and,

(*a*) in the case of an equality of votes with respect to the election of two or more candidates, the presiding officer shall provide for drawing lots to determine which of the candidates is elected; and

(*b*) in the case of an equality of votes on a motion, the motion is lost.

Declaration of result

(16) In the case of an election of trustees, the presiding officer shall then declare the candidate elected for whom the highest number of votes has been polled, and in case of a vote on a motion he shall declare it carried or lost as the majority of votes is in favour of or against the motion.

(17) A statement of the result of the vote shall be certified by the presiding officer and secretary and in the case of an election of trustees the statement shall be signed by any scrutineers present at the counting of the ballots and a copy thereof shall be delivered to each candidate. Statement of result of poll

(18) A correct copy of the minutes of every meeting, signed by the presiding officer and secretary of the meeting, shall be transmitted forthwith by the secretary to the Ministry. Secretary to transmit minutes to Ministry

(19) If from want of proper notice or other cause any meeting for the election of trustees is not held at the proper time, the appropriate separate school supervisory officer or any two supporters of the school may call a meeting by giving six days notice posted in at least three of the most public places in the locality in which the school is situate. R.S.O. 1970, c. 430, s. 29 (13-19), *amended*. Meetings called in default of first or annual meeting

Combined Separate Schools

101.—(1) Where a combined separate school zone is formed or where another separate school zone is added to or detached from a combined separate school zone, the trustees in office shall retire on the 1st day of January following the election of trustees of the combined separate school zone and, subject to subsection 5, five trustees shall be elected by the supporters of the newly-created or altered combined separate school zone as provided in section 100, who shall hold office for two years and otherwise the provisions of section 97 apply. R.S.O. 1970, c. 430, s. 34 (6), *amended*. Trustees

(2) Every trustee shall continue in office until his successor has been elected and the new board is organized. R.S.O. 1970, c. 430, ss. 34 (7), *part*, 42. Trustee in office until organization of new board

(3) For the purpose of electing the first trustees for a combined separate school zone, the boards of the separate schools forming the combined separate school zone shall, before the 1st day of December, each appoint a person to a committee, which shall arrange for the election of trustees in accordance with section 93 or 100, as the case may be. R.S.O. 1970, c. 430, s. 34 (5), *amended*. First trustees

(4) Where a combined separate school zone includes one or more urban municipalities, the board shall be composed of the same number of trustees as the separate school board of the urban municipality having the greatest population would have under section 90 and the board shall be deemed to be an urban board and the zone shall be deemed to be an urban combined separate school zone. Trustees in combined separate school zone including urban municipality

Resolution providing for trustees

(5) Notwithstanding subsections 1 and 4, the board of a combined separate school zone may be composed of such number of trustees, not fewer than five or more than nine, representing such municipalities or parts thereof, or separate school zones in territory without municipal organization, within the combined separate school zone as is provided for in a resolution passed by the board, or, in the case of a newly-formed combined separate school zone, by the committee formed under subsection 3, and the board of the combined separate school zone shall be deemed to be an urban separate school board.

Election and term of office

(6) Where a resolution is passed under subsection 5, the trustees shall be elected at large in the areas within the combined separate school zone that they respectively represent, and sections 93, 94 and 95 apply *mutatis mutandis*, provided that, where a municipality is divided into wards, the resolution may provide for representation by wards.

Voters list for areas in combined zone

(7) Where one or more trustees represent two or more municipalities or parts thereof, or two or more municipalities or parts thereof and one or more separate school zones in territory without municipal organization, and the election is conducted under section 93, the provisions of subsection 21 of section 110 apply *mutatis mutandis*.

Copy of resolution to be sent to Minister

(8) The board or committee that passes a resolution under subsection 5 shall forthwith send a copy thereof to the Minister. R.S.O. 1970, c. 430, s. 34 (10-14), *amended*.

Electors' qualifications, urban combined separate school zone

(9) Every person,

(*a*) who resides in an urban municipality in an urban combined separate school zone and is entitled to vote at the election of trustees under section 94; or

(*b*) who resides in a township or territory without municipal organization in an urban combined separate school zone and would be entitled to vote at the election of trustees under section 97 if the combined separate school zone were a rural separate school zone,

is entitled to vote at the election of trustees of the combined separate school zone and on any school question.

Electors' qualifications, rural combined separate school zone

(10) Every person who resides in a rural combined separate school zone and is entitled to vote at the election of trustees under section 97 is entitled to vote at the election of trustees of the combined separate school zone and, subject to subsection 7 of section 97, on any school question. R.S.O. 1970, c. 430, s. 34 (16, 17), *amended*.

Duties and Powers of Separate School Boards

102.—(1) It is the duty of a separate school board and it has power, Duties of board:

(*a*) to appoint, where required, one or more collectors of school fees or rate-bills, who may be members of the board, and who shall discharge all duties, have powers similar to those of like officers of a municipality, and be subject to the obligations of and the penalties applicable to such officers; appointment of officers

(*b*) where the board does not appoint a collector, to apply to the municipal council, on or before the 1st day of March in each year, for the levying and collecting of all rates for the support of their schools, and for any other school purposes authorized by this Act to be collected from the supporters of the separate schools under the control of the board; collection of rates

(*c*) to appoint annually on or before the 1st day of December an auditor or auditors; appointment of auditors

(*d*) to lay all the accounts of the board before the auditors, together with the agreements, vouchers, contracts and books in its possession, and to afford the auditors all the information in its power as to the receipt and expenditure of school money; and accounts

(*e*) to exercise all such other powers and perform all such other duties of boards as are applicable to public school boards, except where otherwise expressly provided in this Part. R.S.O. 1970, c. 430, s. 50 (1), *part*; 1971, c. 70, s. 2, *amended*. other powers and duties

(2) A separate school board may establish and maintain programs and courses of study in religious education for pupils in all schools under its jurisdiction. *New*. Religious education

County and District Combined Roman Catholic Separate School Zones

103.—(1) On and after the 1st day of January, 1969 the separate school zones and the former separate school zones that form all or part of a combined separate school zone whose centres are within an area designated by the regulations made under subsection 2 are united to form a county or district combined separate school zone, as the case may be. County and district combined separate school zones

(2) The Lieutenant Governor in Council may make regulations, Regulations

(*a*) designating areas in Ontario in which the separate school zones whose centres are within the areas are to be united to form county or district combined separate school zones and designating the names of the areas;

(*b*) altering the boundaries of any such area;

(*c*) respecting any matter necessary or advisable to carry out effectively the intent and purpose of sections 103 to 115. R.S.O. 1970, c. 430, s. 81 (1, 2).

Establishment of boards

(3) A separate school board shall be established for each county and district combined separate school zone, and the trustees of the board shall be elected and the board organized in accordance with sections 110 to 112. R.S.O. 1970, c. 430, s. 84.

Separate school zones established after January 1, 1969

(4) Where the centre of a separate school zone established on or after the 1st day of January, 1969, is within an area designated by the regulations made under subsection 2, the separate school zone shall forthwith become a part of the county or district combined separate school zone in that area. R.S.O. 1970, c. 430, s. 81 (3); 1972, c. 76, s. 27, *amended*.

Meeting to establish separate school zone in designated area

104.—(1) Not fewer than five heads of families, being Roman Catholics and being householders or freeholders resident within a six-mile square area in an area designated by the regulations made under subsection 2 of section 103, may convene a public meeting of persons desiring to establish a separate school zone with its centre therein.

Procedure

(2) Where such a meeting is held, the persons present shall,

(*a*) elect a chairman and a secretary for the meeting;

(*b*) pass a motion determining the centre of the separate school zone to be established; and

(*c*) require the chairman of the meeting to send a copy of the motion to,

(i) the Minister,

(ii) the secretary of the county or district combined separate school board,

(iii) the secretary of the divisional board of education affected, and

(iv) the appropriate assessment commissioner,

and on and after the transmission to the Minister of a copy of the notice calling the meeting, a copy of the motion, and evidence that the persons required to be notified under clause *c* have been so notified, the separate school zone is established and becomes a part of the county or district combined separate school zone.

(3) No trustees shall be elected at the meeting. 1972, c. 76, s. 28, *part, amended*. Trustees not elected at meeting

105. Where a county or district combined separate school board acquires a site under subsection 3 of section 168 and operates a school on such site, a separate school zone having its centre as provided in subsection 2 of section 80 is deemed to have been established under subsection 2 of section 104 on the date on which final approval in respect of the construction or purchase of the school is given by the Minister for the purposes of legislative grant. 1972, c. 76, s. 28, *part, amended*. Zone deemed formed

106.—(1) Where, on and after the 1st day of January, 1971, the boundaries of an area designated by the regulations under subsection 2 of section 103 are altered to include, Arbitration where boundaries of designated areas are altered

(*a*) one or more separate school zones established under section 83; or

(*b*) part or all of one or more separate school zones that form part or all of another county or district combined separate school zone,

each of the boards concerned shall appoint one arbitrator who, subject to subsection 2, shall forthwith value and adjust in an equitable manner the assets and liabilities of the boards affected by the alteration of the boundaries and the decision of the arbitrators is final and binding upon the boards concerned.

(2) Where the number of arbitrators appointed under subsection 1 is an even number, the arbitrators so appointed shall appoint an additional arbitrator. *New*. Appointment of additional arbitrator

(3) Where a majority of the arbitrators appointed under subsections 1 and 2 is unable to reach a decision on any matter, such matter shall be referred by the arbitrators to the judge whose decision is final. R.S.O. 1970, c. 430, s. 86 (5), *amended*. Referral to judge

107.—(1) Where the boundaries of an area designated by the regulations under subsection 2 of section 103 are altered, all lands and premises that, Alteration of boundaries; disposition of assets and liabilities

(*a*) are situate in a municipality or part thereof or territory without municipal organization that is added to the designated area by such alteration;

(*b*) are used as separate schools on the last school day preceding the effective date of such alteration; and

(*c*) immediately prior to the effective date of such alteration are vested in a separate school board,

shall, on and after such effective date, be vested without compensation, but subject to all existing debts, contracts, agreements and liabilities that pertain to such lands and premises, in the county or district combined separate school board for the designated area to which the municipality or part thereof or territory without municipal organization is added, and the separate school boards concerned shall agree upon the disposition of all other property situate upon, or used in connection with, such lands and premises.

Dispute

(2) Any dispute as to the disposition of property under subsection 1 may be referred by one or more of the boards concerned to the Ontario Municipal Board, which shall determine the matters in dispute and its decision is final.

Employment contracts

(3) The employment contract of every employee of a separate school board who, immediately before the effective date of the alteration of the boundaries of an area designated by the regulations under subsection 2 of section 103 was required to perform his duties in a separate school that is vested under subsection 1 in the county or district combined separate school board for such designated area becomes an obligation of such county or district combined separate school board.

Transfer of trustee

(4) Subject to subsection 8, where one or more municipalities are detached from an area designated by the regulations under subsection 2 of section 103 and attached to an adjoining designated area and one trustee of the county or district combined separate school board for the designated area from which the municipality or municipalities are detached resides in one such municipality and was elected by the separate school electors of such municipality, whether or not the municipality was combined with one or more other municipalities for election purposes, such trustee shall, on the effective date of the attaching of the municipality or municipalities cease to be a trustee of the separate school board to which he was elected and shall on such date and for the remainder of his term of office be deemed,

(*a*) to have been elected by separate school electors of the county or district combined separate school board for the designated area to which the municipality in which he resides is attached; and

(*b*) to represent on such board the separate school electors of the municipality in which he resides and of the other municipality or municipalities, if any, that were combined therewith for election purposes under subsection 8 of section 110 at the time of his election and that are also attached to such designated area,

and for such period the municipality or combined municipalities so attached shall be deemed to have been determined under subsection 8 of section 110 as a municipality or combination of municipalities, as the case may be, to be represented by one trustee.

Number of trustees reduced

(5) Where one or more municipalities are detached from an area designated by the regulations under subsection 2 of section 103 and the number of trustees of the county or district combined separate school board for such area is reduced pursuant to subsection 4, for the remainder of the term of the board the number of trustees who remain on the board shall be deemed to be the number determined under subsection 2 of section 110.

Trustee to represent transferred area

(6) Subject to subsection 8, where a municipality or part thereof or territory without municipal organization is detached from an area designated by the regulations under subsection 2 of section 103 and attached to an adjoining designated area or area of jurisdiction of an urban separate school board, on the effective date thereof and for the remainder of the term of office of the separate school board for the area that is enlarged, the separate school electors in such municipality or part or territory without municipal organization shall be represented by the trustee or trustees of the separate school board last elected in,

(*a*) the municipality, combination of municipalities or part or parts thereof or territory without municipal organization in the designated area; or

(*b*) the ward established for election of one or more trustees of the urban separate school board,

that adjoins such attached municipality or part or territory without municipal organization, but this subsection does not apply to the municipality or municipalities that will be represented by a trustee by virtue of subsection 4.

Determination of trustee representation by enlarged board

(7) Subject to subsection 8, where a municipality or part thereof or territory without municipal organization that is attached to a designated area adjoins two or more municipalities in the designated area that are not combined for the purpose of electing one or more trustees, the county or district combined separate school board for the area that is enlarged shall, by resolution, determine the trustee or trustees who, for the remainder of the term of office of the board, shall represent the municipality or part or territory without municipal organization that is attached to the designated area, but this subsection does not apply to the municipality or municipalities that will be represented by a trustee by virtue of subsection 4.

Application of subss. 4, 6, 7

(8) Subsections 4, 6 and 7 do not apply where a regular election of the board is to be held before the effective date on which the municipality or municipalities or part or parts thereof or territory without municipal organization is attached.

Area added to Scarborough to be under Metropolitan Separate School Board

1973, c. 48

(9) The area added to the Borough of Scarborough by section 5 of *The Municipality of Metropolitan Toronto Amendment Act, 1973*, shall, on and after the 1st day of January, 1974, be part of the district of which the separate schools are administered by The Metropolitan Separate School Board. 1973, c. 117, s. 2.

Name of board in one county

108.—(1) A county combined separate school board that has jurisdiction in an area that includes only one county is a corporation by the name of "The..... County Roman Catholic Separate School Board" (*inserting the name of the county*). R.S.O. 1970, c. 430, s. 85 (1).

Name of county combined board

(2) A county combined separate school board that has jurisdiction in an area that includes two or more counties, or one county and a defined city is a corporation by the name of "The.....County Roman Catholic Separate School Board" (*inserting the names of the counties, the name of the city and of the county or a name selected by the board and approved by the Minister*). 1972, c. 76, s. 29.

Name of board in territorial districts

(3) A district combined separate school board that has jurisdiction in the territorial districts is a corporation by the name of "The.....Roman Catholic Separate School Board" (*inserting the name of the area designated by the regulations*).

Name of board in regional municipality

(4) Notwithstanding subsections 2 and 3 and except as provided in sections 114 and 115, a combined separate school board that has jurisdiction in all or part of a regional municipality is a corporation by the name of "The..... Roman Catholic Separate School Board" (*inserting a name selected by the board and approved by the Minister*). R.S.O. 1970, c. 430, s. 85 (3, 4).

109.—(1) For district combined separate school purposes, every separate school zone that comprises only territory without municipal organization and whose centre is in an area designated by the regulations made under subsection 2 of section 103, and any part of territory without municipal organization that is part of a combined separate school zone whose centres are in an area designated by the regulations made under subsection 2 of section 103, shall be deemed to be a district municipality. R.S.O. 1970, c. 430, s. 80 (3).

Territory without municipal organization in zones deemed district municipalities

(2) The board of a district combined separate school zone that includes territory without municipal organization that is deemed a district municipality for separate school purposes shall exercise the powers and duties of a municipal council for such district municipality in respect of preparing estimates, levying rates, collecting taxes and issuing debentures for the purposes of the district combined separate school board and in respect of the preparation of a list of voters and the election of members of such board, and all the officers appointed by such board have the same powers and duties as similar officers in an organized municipality except that the provisions of subsections 5 to 11 of section 65 apply *mutatis mutandis*, and the expenses incurred by the board in connection therewith except the issuing of debentures shall be raised by a levy imposed by the district combined separate school board on all property rateable for separate school purposes in such district municipality. R.S.O. 1970, c. 430, s. 80 (6), *amended*.

Powers and duties of combined board re territory without municipal organization

(3) In respect of territory without municipal organization referred to in subsection 2 that is part of a school division, the secretary of the board of the school division shall exercise the powers and perform the duties of the clerk of a municipality under subsections 2*a* to 2*l* of section 516 of *The Municipal Act* for the purposes of the district combined separate school board. 1972, c. 137, s. 4 (2).

Duties of secretary of board re school support

R.S.O. 1970, c. 284

(4) The secretary-treasurer of an improvement district that forms part of a district combined separate school zone, in each year in which an election for members of the district combined separate school board is to be held, shall provide for such election in the improvement district in the same manner as for the election of trustees in a municipality, and the secretary-treasurer of the improvement district shall be the clerk and returning officer and has all the powers and shall perform all the duties of the clerk and returning officer of a municipality in relation to the election of members of a district combined separate school board under *The Municipal Elections Act, 1972*. R.S.O. 1970, c. 430, s. 80 (7); 1972, c. 76, s. 26 (3), *amended*.

Election in improvement district

1972, c. 95

Interpretation

110.—(1) In this section,

(*a*) "equalized residential and farm assessment" means the residential and farm assessment referred to in clause *b*, as adjusted by the latest assessment equalization factor applicable thereto that is provided by the Minister;

(*b*) "residential and farm assessment" means the residential and farm assessment upon which taxes are levied in the year in which a determination is made or the year in which nominations are held, as the case may be. R.S.O. 1970, c. 430, s. 90 (1); 1972, c. 76, s. 30 (1).

Composition of board

(2) Subject to subsection 4 and except where otherwise expressly provided, the number of trustees of a combined separate school board shall be determined by the population of the county or counties or of the area municipalities in a regional municipality in the county combined separate school zone, and the number of trustees of a district combined separate school board shall be determined by the population of the municipalities all or part of which are included in the district combined separate school zone, as the case may be, as follows, where the population is,

(*a*) less than 25,000, eight trustees;

(*b*) 25,000 or more but less than 45,000, ten trustees;

(*c*) 45,000 or more but less than 100,000, twelve trustees;

(*d*) 100,000 or more but less than 200,000, fourteen trustees;

(*e*) 200,000 or more, sixteen trustees.

Change in numbers of trustees

(3) Where it becomes evident from the population of the county or counties in a county combined separate school zone or of the municipalities all or part of which are in a district combined separate school zone that the number of trustees of the board should be increased or decreased in accordance with subsection 2, at the next regular election of trustees the proper number of trustees shall be elected.

Number of trustees to be elected in a combined zone comprising one or more cities and county or district municipalities

(4) Where a combined separate school zone includes county or district municipalities or parts thereof and one or more cities, the number of trustees to be elected by the separate school supporters,

(*a*) of each city shall be equal to the product, correct to the nearest integer, the fraction one-half being raised to the next higher integer, obtained by multiplying the number of trustees determined under subsection 2 by the ratio of the equalized residential and farm assessment of the property rateable for separate school purposes in the city to the equalized residential and farm assessment of all the property rateable for separate school purposes in the county or district combined separate school zone; and

(*b*) of the county or district municipalities or the parts thereof shall be the number of trustees determined under subsection 2 less the total number of trustees determined under clause *a* for the city or cities, but in no case shall the number of trustees to be elected under this clause be fewer than one.

Determination under subs. 4 who to make

(5) The clerk of the county municipality or the clerk of the organized district municipality, as the case may be, or where there is no organized district municipality in the district combined separate school zone, the clerk of the city, having the greatest equalized residential and farm assessment for separate school purposes in a county or district combined separate school zone, shall make the determination required under subsection 4, and shall, before the 1st day of September in the year of the determination, send by registered mail to the clerk of each city and of each county or district municipality in the combined separate school zone and to the secretary of the county or district combined separate school board, a copy of the determination.

When determination to be made

(6) Before the 1st day of September in the year in which an election is to be held, a determination shall be made under subsection 4,

(*a*) if it is determined under subsection 3 that the number of members of the county or district combined separate school board should be increased or decreased or if the boundaries of the county or district combined separate school zone have been altered, or are to be altered, effective the 1st day of January next following the election;

(*b*) if,

(i) the boundaries of one or more cities within the county or district combined separate school zone have been altered or a new city has been erected in the county or district combined separate school zone subsequent to the latest

determination made under subsection 4 that did not take into account the altered boundaries or the new city, or

(ii) the boundaries of one or more cities within the county or district combined separate school zone are to be altered or a new city is to be erected effective the 1st day of January of the year next following the election; and

(*c*) in every fourth year following the latest determination under subsection 4,

and, subject to subsection 15, a determination made under subsection 4 is effective until a new determination is required in accordance with this subsection.

Where a city does not qualify for at least one trustee

(7) Where a city is not entitled to one or more trustees under clause *a* of subsection 4, the city shall be deemed to be a county or district municipality for the purposes of subsection 4 or 8, and the clerk of the city shall be deemed to be a clerk of a county or district municipality for the purposes of subsection 8.

Distribution of trustees to be elected in county or district municipalities in combined zone

(8) With respect to the county municipalities in a county combined separate school zone and the district municipalities in a district combined separate school zone, the clerks of the three county municipalities or the clerks of the three organized district municipalities, as the case may be, having successively the greatest equalized residential and farm assessment for separate school purposes in the combined separate school zone, and where there are fewer than three organized district municipalities in the district combined separate school zone, the clerks of all such municipalities, shall determine, before the 1st day of September in each year in which,

(*a*) a determination is made in accordance with subsection 6; or

(*b*) an election is to be held and the boundaries of one or more county or district municipalities have been altered subsequent to the latest determination under this subsection, or are to be altered effective on or before the 1st day of January next following the election,

the county or district municipality or municipalities to be represented by each trustee to be elected in the county or district municipalities in the combined separate school zone, but in no case where two or more trustees are to be elected

in the county or district municipalities shall the determination under this subsection provide for a trustee to be elected by a general vote of all the separate school electors of the county or district municipalities, and such determination is effective until a new determination is required under this subsection. R.S.O. 1970, c. 430, s. 90 (2-8).

Distribution of members within combined municipalities

(9) Where two or more county municipalities that are not in a regional municipality are combined under subsection 8 for the election of two or more trustees and one of the combined municipalities has a population in excess of 75,000, the clerks of such combined municipalities may, before the 15th day of September in any year in which a determination is made under subsection 8, determine that a portion of a county municipality that is so combined be attached to one or more of the other county municipalities in the combination of municipalities for the election of one or two trustees and, where the clerks of such combined municipalities so determine,

(*a*) the number of trustees to be elected in the combined municipalities shall be apportioned among the combined areas formed under this subsection and the remainder, if any, of the county municipality, as nearly as is practicable in the proportion that the equalized residential and farm assessment of the property rateable for separate school purposes in each such combined area and in the remainder, if any, of the county municipality, bears to the total equalized residential and farm assessment of the property rateable for separate school purposes in the combined municipalities; and

(*b*) where the remainder of the county municipality is to be represented by two or more trustees, subsections 17 and 18 apply *mutatis mutandis* in respect of such remainder.

Appeal from determination under subs. 9

(10) Where the determination made under subsection 9 apportions to a combined area or to the remainder of a county municipality a percentage of the total number of trustees to be elected in the combined municipalities as determined under subsection 8 that differs by more than five percentage points from the percentage that the equalized residential and farm assessment of the property rateable for separate school purposes in the combined area or in the remainder of the county municipality, as the case may be, is of the total equalized residential and farm assessment of the property rateable for separate school purposes in the combined municipalities, the council of a municipality all or part of which is in the combined area or part of which forms such remainder, as the case may be,

may, within fifteen days after notice of such determination has been sent, appeal the determination to the judge who shall either reapportion the number of trustees in accordance with clause *a* of subsection 9 or, where he determines that the determination was made in accordance with such clause, confirm the determination, and his decision is final. 1972, c. 76, s. 30 (2).

Where judge to make determination

(11) Where the determination under subsection 8 is not made before the 1st day of September, the clerk of the county municipality or of the district municipality, as the case may be, having the greatest equalized residential and farm assessment for separate school purposes in the combined separate school zone, shall refer the matter to the judge, who shall make the determination before the 1st day of October in accordance with subsection 13, and his decision is final. R.S.O. 1970, c. 430, s. 90 (9).

Municipal clerk from each county to be on committee under subs. 8

(12) Where the separate school zones in two or more counties are combined to form a county combined separate school zone, and where the three clerks designated under subsection 8 do not include a clerk from each county in the county combined separate school zone, the clerk of the county municipality having the greatest equalized residential and farm assessment for separate school purposes in each such county not so represented shall act together with the clerks designated under subsection 8. R.S.O. 1970, c. 430, s. 90 (10); 1972, c. 76, s. 30 (3).

Determination

(13) In determining under subsection 8,

(*a*) the number of trustees to be elected by the separate school electors of a county or district municipality; or

(*b*) the county or district municipalities that are to be combined for the election of one or more trustees by the separate school electors of such municipalities,

the clerks of the county or district municipalities, as the case may be, shall apportion the number of trustees determined for a combined separate school zone under clause *b* of subsection 4, as nearly as is practicable, in the proportion that the equalized residential and farm assessment of the property rateable for separate school purposes in the part of such zone in the municipality or combined municipalities bears to the total equalized residential and farm assessment of the property rateable for separate school purposes in the whole of such zone in the county or district municipalities in such zone, and shall, in so far as it is practicable to do so, combine municipalities that are adjoining.

Appeal from determination

(14) Where the determination made by the clerks of the county or district municipalities under subsection 8 allots to a municipality or to a combination of municipalities a percentage of the total number of trustees to be elected by the separate school electors of all the county or district municipalities in the combined separate school zone that differs by more than five percentage points from the percentage that the equalized residential and farm assessment of the property rateable for separate school purposes in the part of such zone in the municipality or combination of municipalities is of the total equalized residential and farm assessment of the property rateable for separate school purposes in the whole of such zone, the council of the municipality or the council of any municipality in such combination of municipalities, as the case may be, may, within fifteen days after notice of the determination has been mailed, appeal the determination to the judge who, before the 1st day of October, shall either reapportion the number of trustees in accordance with subsection 13 or, where he determines that the determination was made in accordance with subsection 13, confirm the determination, and his decision is final.

Request by clerk for information

(15) On the request of the clerk of the county municipality or the organized district municipality, as the case may be, having the greatest equalized residential and farm assessment for separate school purposes in a combined separate school zone, the clerk of each city and of each county or district municipality and the secretary of the county or district combined separate school board shall provide the clerk of such county municipality or organized district municipality with the information required to make any determination under this section.

Mailing of determination under subss. 8, 14

(16) The clerk of the county municipality or the clerk of the organized district municipality, as the case may be, having the greatest equalized residential and farm assessment for separate school purposes in a county or district combined separate school zone shall send by registered mail to the clerk of each city and of each county or district municipality in the combined separate school zone and to the secretary of the county or district combined separate school board,

(*a*) before the 1st day of September in each year in which it is determined under subsection 3 that the number of trustees of the board should be increased or decreased or in which a determination is made under subsection 8, a copy of the determination made under subsection 8; and

(*b*) before the 1st day of October in each year in which a determination is made by the judge under subsection 11 or 14 a copy of the determination.

Appeal and decisions of judge

(17) The council of any municipality concerned and a district combined separate school board on behalf of any territory without municipal organization may, within ten days of the mailing of the determination made under subsection 4, appeal to the judge with respect to the accuracy of the determination, and the judge shall either vary or confirm the determination, and his decision is final, and the clerk of the county or district municipality responsible under subsection 5 for making such determination shall make the changes required by the judge and shall send a copy of the decision by registered mail to the clerk of each city and of each county or district municipality in the combined separate school zone and to the secretary of the county or district combined separate school board.

New determination where former determination improper

(18) Where the council of a municipality, or a county or district combined separate school board on behalf of any territory without municipal organization that is deemed a district municipality, after the period for an appeal under this section, and notwithstanding a decision made in respect of such appeal, is of the opinion that the composition of the board of a combined separate school zone was not determined in accordance with the provisions of this section, the council or the board may, before the 1st day of May in the year of the next following election, apply to the judge to have the determination set aside and, where the judge finds that the determination was not made in accordance with the provisions of this section, he shall order a new determination to be made, and the determination so made, subject to an appeal under subsection 14 or 17, shall apply to the election next following such determination, and the board in respect of which the application to the judge is made shall be deemed to have been properly constituted notwithstanding any defect in its composition.

Where election by general vote and where by areas

(19) The number of trustees of a county or district combined separate school board to be elected in a municipality shall be elected by a general vote of the separate school electors of such board in the municipality, provided that, where it is determined under this section that the number of trustees to be elected to the board by the separate school electors in the municipality is two or more, the council of the municipality may, by by-law, divide the municipality into two or more areas and provide for the election of one or more of such trustees by the separate school electors in each of such areas. R.S.O. 1970, c. 430, s. 90 (11-17).

Time for passing by-law

(20) A by-law for the purpose mentioned in subsection 19 and a by-law repealing any such by-law shall not be passed later than the 1st day of October in the year of the election

and shall take effect for the purpose of the election next after the passing of the by-law and remains in force until repealed. R.S.O. 1970, c. 425, s. 38 (20); R.S.O. 1970, c. 430, s. 90 (18).

Elections in combined areas

(21) Where two or more county or district municipalities are combined for the election of one or more trustees, such trustee or trustees shall, except where a determination is made under subsection 9, be elected by a general vote of the separate school electors of the combined municipalities, and where, under subsection 9 or 10 a portion of a county municipality is attached to one or more other county municipalities for the election of one or two trustees, such trustee or trustees shall be elected by a general vote of the separate school electors of such combined area, and,

(*a*) the nominations in each case shall be conducted by the returning officer of the municipality having the greatest equalized residential and farm assessment for separate school purposes of any municipality all of which is in the area for which the trustee or trustees are to be elected, who shall send to the clerk of each municipality concerned, by registered mail within forty-eight hours after the closing of nominations, the names of the candidates who have qualified; and

(*b*) the clerk of each municipality shall be the returning officer for the vote to be recorded in his municipality and he shall report forthwith the vote recorded to the returning officer referred to in clause *a*, who shall prepare the final summary and announce the vote. 1972, c. 76, s. 30 (4).

Secretary of board deemed clerk for elections in areas deemed district municipalities

(22) For the purposes of clause *b* of subsection 21, the secretary of the district combined separate school board shall be the clerk of each part of territory without municipal organization in the district combined separate school zone that is deemed to be a district municipality for separate school purposes. R.S.O. 1970, c. 430, s. 90 (20).

Elections

(23) The election of trustees of a county or district combined separate school board shall be conducted by the same officers and in the same manner as elections of members of the council of a municipality. 1972, c. 76, s. 30 (5).

Effect of boundary change on election

111. Where the boundaries of an area designated by the regulations under subsection 2 of section 103 in respect of a county or district combined separate school board are to be altered effective on the 1st day of January next following

the election of trustees of the board, the boundaries of such area shall be deemed to have been altered for all purposes relating to such election. 1972, c. 137, s. 5.

Number of votes to be cast

112.—(1) Every person in a municipality or in a part thereof or in a combination of municipalities who is qualified to vote for trustees of a separate school board under sections 103 to 115 is entitled to as many votes as there are trustees to be elected in such municipality or part or combination of municipalities, but may not give more than one vote to any one candidate.

Retiring trustees eligible for re-election

(2) A trustee of a county or district combined separate school board is eligible for re-election if otherwise qualified.

Qualifications for proposers and seconders of candidates

(3) Every proposer and seconder of a candidate nominated for the office of a trustee to be elected to a separate school board under sections 103 to 115 shall be a separate school supporter.

Person not to be candidate for more than one seat on board

(4) No person shall qualify himself as a candidate for more than one seat on a county or district combined separate school board, and any person who so qualifies himself and is elected to hold one or more seats on the county or district combined separate school board is not entitled to sit as a trustee of the board by reason of the election, and his seat or seats are thereby vacated. R.S.O. 1970, c. 430, s. 91 (1-4).

Election to fill vacancy

1972, c. 95

(5) A separate school board under sections 103 to 115 may require that an election be held to fill a vacancy on the board and, where an election is held, the provisions of *The Municipal Elections Act, 1972* that pertain to an election to fill a vacancy apply. 1972, c. 76, s. 31.

Ottawa separate school zone

113.—(1) On and after the 1st day of January, 1970, the cities of Vanier and Ottawa and the Village of Rockcliffe Park are united to form a county combined separate school zone under sections 103 to 115.

Ottawa Board

(2) A separate school board shall be established for such combined separate school zone which shall be a corporation by the name of "The Ottawa Roman Catholic Separate School Board" and shall consist of sixteen trustees.

Number of trustees to be elected in Ottawa and Rockcliffe Park

(3) The number of trustees to be elected by the separate school electors in the area comprising the City of Ottawa and the Village of Rockcliffe Park shall be equal to the product, correct to the nearest integer, the fraction one-half being raised to the next higher integer, obtained by multiplying sixteen by the ratio of the equalized residential and farm

assessment of the property rateable for separate school purposes in the City of Ottawa and the Village of Rockcliffe Park to the equalized residential and farm assessment of all the property rateable for separate school purposes in the combined separate school zone, and such trustees shall be elected by general vote.

Vanier

(4) The number of trustees to be elected by the separate school electors in the City of Vanier shall be sixteen, less the number determined under subsection 3, and such trustees shall be elected by general vote, but in no case shall the number of trustees elected under this subsection be fewer than one.

Election of trustees, term of office

(5) Commencing in the year 1969, the trustees of The Ottawa Roman Catholic Separate School Board shall be elected at the same time and place and for the same term of office as the members of The Ottawa Board of Education, and the nomination of candidates for the offices of trustees to be elected by the separate school electors in the City of Ottawa and the Village of Rockcliffe Park shall be submitted to the returning officer of the City of Ottawa, and the clerk of the Village of Rockcliffe Park, forthwith after the election, shall report the vote recorded in his municipality to the clerk of the City of Ottawa who shall prepare the final summary and announce the vote.

Application of ss. 103-115

(6) Except where inconsistent with this section, the other provisions of sections 103 to 115 in respect of county combined separate school boards apply *mutatis mutandis* to the board established under subsection 2. R.S.O. 1970, c. 430, s. 82, *amended*.

Carleton combined separate school zone

114.—(1) On and after the 1st day of January, 1969, the separate school zones and the former separate school zones that form all or part of a combined separate school zone whose centres are within an area municipality as defined in *The Regional Municipality of Ottawa-Carleton Act*, except the cities of Vanier and Ottawa and the Village of Rockcliffe Park, are united to form a county combined separate school zone.

R.S.O. 1970, c. 407

Carleton Board

(2) A separate school board shall be established for such county combined separate school zone which shall be a corporation by the name of "The Carleton Roman Catholic Separate School Board".

Election of trustees, term of office

(3) The trustees of The Carleton Roman Catholic Separate School Board shall be elected at the same time and for the same term of office as the members of The Carleton Board of Education.

Application of Act to Carleton Board

(4) Except as provided in this section, all the provisions of this Act respecting county combined separate school boards apply to The Carleton Roman Catholic Separate School Board. R.S.O. 1970, c. 430, s. 83.

Part of Ottawa-Carleton deemed county

R.S.O. 1970, c. 407

(5) For county combined separate school purposes, the area municipalities as defined in *The Regional Municipality of Ottawa-Carleton Act*, except the cities of Ottawa and Vanier and the Village of Rockcliffe Park, shall be deemed to be a county. R.S.O. 1970, c. 430, s. 80 (2).

Essex county

115.—(1) For county combined separate school purposes, the County of Essex does not include the City of Windsor. R.S.O. 1970, c. 430, s. 80 (4); 1972, c. 76, s. 26 (2).

Application of ss. 203, 204

(2) Sections 203 and 204 apply *mutatis mutandis* to the City of Windsor and The Board of Trustees of the Roman Catholic Separate Schools for the City of Windsor. R.S.O. 1970, c. 430, s. 80 (5).

Rates, Borrowing Powers and Grants

Exemption of supporters from public school rates

116.—(1) Every person paying rates in a separate school zone on property that he occupies as owner or tenant or on unoccupied property that he owns, who by himself or his agent, on or before the 30th day of September in any year, gives to the clerk of the municipality notice in writing that he is a Roman Catholic and that he wishes to be a separate school supporter, is exempt from the payment of all rates imposed on such property in the separate school zone for public school purposes for the following year and every subsequent year while he continues to be a separate school supporter with respect to such property.

No renewal required

(2) The notice is not required to be renewed annually.

Who may be supporters of separate schools

(3) Any person who is a Roman Catholic and resident on a parcel of land that is within a separate school zone may be a separate school supporter in that zone. R.S.O. 1970, c. 430, s. 53 (1-3), *amended*.

Rights of non-residents to be assessed for separate school

(4) Any person who, if he were resident in a separate school zone, would be entitled to be a supporter of a separate school and who is the owner of unoccupied land situate in the separate school zone, may, on or before the 30th day of September in any year, by written notice to the clerk of the municipality in which the land is situate or, where the land is not in a municipality, to the secretaries of the public and separate school boards, direct that all such land in the separate school zone shall be assessed for the purposes of the separate school. 1972, c. 76, s. 16.

(5) Every clerk of a municipality, upon receiving the notice, shall deliver a certificate to the person giving the notice to the effect that the notice has been given and showing the date thereof. Certificate of notice

(6) Any person who fraudulently gives such notice, or wilfully makes any false statement therein, does not thereby secure any exemption from the rates, and in addition is guilty of an offence and on summary conviction is liable to a fine of not more than $100. Penalty for wilful false statements in notice

(7) Nothing in this section exempts any person from paying any rate for public school purposes imposed before the establishment of the separate school zone. R.S.O. 1970, c. 430, s. 53 (5-7), *amended*. As to rates imposed before separate school established

117.—(1) A Roman Catholic who desires to withdraw his support from a separate school shall, on or before the 30th day of September in any year, give notice in writing that he desires to withdraw his support for the following year, Notice of withdrawal of support

(*a*) where the separate school is situated in a municipality, to the clerk of the municipality; or

(*b*) where the separate school is situated in territory without municipal organization,

(i) if he resides in a school section, to the secretary of the public school board of the section and to the secretary of the separate school board, or

(ii) if he does not reside in a school section, to the secretary of the separate school board,

otherwise he shall be deemed to be a supporter of the separate school.

(2) A person who withdraws his support from a Roman Catholic separate school is not exempt from paying rates for separate school purposes imposed before the date on which the withdrawal of such support is effective. R.S.O. 1970, c. 430, s. 59. Exception

118.—(1) Where a person resides in a separate school zone and is a separate school supporter in such zone but his residence is situate in a municipality other than a municipality in which a centre of such zone is located, he is liable to pay and shall pay the separate school rates or taxes imposed by the board of the separate school of which he is a Liability of non-resident supporter

supporter upon property that is situate in such zone and that he occupies as owner or tenant or that is unoccupied and owned by him, and he is not liable to pay rates or taxes to any other separate school board in respect of such property.

How enforceable

(2) The board of the school of which he is a supporter shall notify the clerk of the municipality in which such supporter resides of the amount of the school taxes or rates payable by him, and the same shall be collected in like manner as other taxes, and when collected shall be paid over to the board. R.S.O. 1970, c. 430, s. 58, *amended*.

Clerk to keep index book

119.—(1) The clerk of every municipality shall keep entered in an index book (Form 1) and in alphabetical order, the name of every person who has given to him, or to any former clerk of the municipality, notice in writing that such person is a Roman Catholic and a supporter of a separate school in or contiguous to the municipality, as provided by sections 116, 122 and 123 or by former Acts respecting separate schools.

Entries

(2) The clerk shall enter opposite the name, in a column for that purpose, the date on which the notice was received, and in a third column opposite the name any notice by such person of withdrawal from supporting a separate school, as provided by section 117, or by any such other Act, with the date of the withdrawal, or any disallowance of the notice by the Assessment Review Court, by a judge, by the Ontario Municipal Board or by the Court of Appeal, with the date of the disallowance.

Inspection

(3) The index book shall be open to inspection by any ratepayer.

Filings

(4) The clerk shall file and carefully preserve all such notices heretofore or hereafter received. R.S.O. 1970, c. 430, s. 60 (1-4).

Clerk to be guided by index book

(5) The clerk and the appropriate assessment commissioner shall be guided by the entries in the index book in ascertaining those who have given the prescribed notices. R.S.O. 1970, c. 430, s. 60 (5); 1972, c. 76, s. 17, *amended*.

Correction of mistakes in assessing
R.S.O. 1970, c. 32

120.—(1) If it appears to the council of any municipality after the final revision of the list supplied to the clerk under section 23 of *The Assessment Act* that through mistake or inadvertance a ratepayer has been entered on the list either as a supporter of separate schools or as a supporter of public schools, the council after due inquiry and notice may correct the error by directing the school taxes of the ratepayer to be paid to the proper school board, but the council is not competent to reverse the decision of the Assessment Review Court, a judge, the Ontario Municipal Board or the Court of Appeal on appeal. R.S.O. 1970, c. 430, s. 61 (1); 1972, c. 76, s. 18.

(2) In case of such action by a council, the ratepayer is liable for the same amount of school taxes as if he had in the first instance been properly entered on the roll. R.S.O. 1970, c. 430, s. 61 (2). Liability

121.—(1) The clerk of every municipality, in making out the collector's roll, shall place columns therein so that under the heading of "School Rate" the public school rate may be distinguished from the separate school rate, and that under "Special Rate for School Debts" public school purposes may be distinguished from separate school purposes. Distinguishing the school rates

(2) The proceeds of any such rate shall be kept distinguished by the collector and accounted for accordingly. R.S.O. 1970, c. 430, s. 62. Idem

122.—(1) The occupant or tenant of land shall be deemed to be the person primarily liable for the payment of school rates and for determining whether those rates shall be applied to public or separate school purposes, and no agreement between the owner or tenant as to the payment of taxes as between themselves alters or affects this provision. Case of owner and occupant

(2) Where, as between the owner and tenant or occupant, the owner is not to pay taxes, if by the default of the tenant or occupant to pay the same, the owner is compelled to pay such school rate, he may direct the same to be applied to either public or separate school purposes, and if the public school rate and the separate school rate are not the same he is only liable to pay the amount of the rate of the schools to which he directs his money to be paid. R.S.O. 1970, c. 430, s. 63. When owner may exercise option

123.—(1) A corporation by notice (Form 2) to the clerk of any municipality wherein a separate school exists may require the whole or any part of the land of which the corporation is either the owner and occupant, or not being the owner is the tenant, occupant or actual possessor, and the whole or any proportion of the business assessment or other assessments of the corporation made under *The Assessment Act*, to be entered, rated and assessed for the purposes of the separate school. R.S.O. 1970, c. 430, s. 64 (1). Right of corporation to support separate schools; R.S.O. 1970, c. 32

(2) The clerk shall thereupon enter the corporation as a separate school supporter in the collector's roll in respect of the land and business or other assessments designated in the notice, and the proper entries shall be made in the prescribed column for separate school rates, and so much of the land and business or other assessments so designated shall be assessed accordingly for the purposes of the separate school and not for public school purposes, but all other land and the Duty of clerk

remainder, if any, of the business or other assessments of the corporation shall be separately entered and assessed for public school purposes. R.S.O. 1970, c. 430, s. 64 (2); 1972, c. 76, s. 20 (1).

How proportions settled

(3) Unless all the stock or shares are held by Roman Catholics, the share or portion of such land and business or other assessments to be so rated and assessed shall not bear a greater proportion to the whole of such assessments than the amount of the stock or shares so held bears to the whole amount of the stock or shares.

Effect of notice

(4) A notice given in pursuance of a resolution of the directors is sufficient and shall continue in force and be acted upon until it is withdrawn, varied or cancelled by a notice subsequently given pursuant to any resolution of the corporation or of its directors, except that, upon appeal, if it is ruled that the notice is not a proper notice, it is void, and the clerk shall so notify the corporation and mark the notice accordingly. R.S.O. 1970, c. 430, s. 64 (3, 4)

Filing notice

(5) Every notice so given shall be kept by the clerk on file in his office and shall at all convenient hours be open to inspection and examination by any person entitled to examine or inspect a collector's roll. R.S.O. 1970, c. 430, s. 64 (5); 1972, c. 76, s. 26 (20).

Search for notices
R.S.O. 1970, c. 32

(6) The clerk shall in each year, before the final revision of the list supplied to the clerk under section 23 of *The Assessment Act*, search for and examine all notices that may be so on file and shall follow and conform thereto and to the provisions of this Act. R.S.O. 1970, c. 430, s. 64 (6); 1972, c. 76, s. 20 (3).

Estimates

124.—(1) Every separate school board shall prepare and adopt estimates of all sums required during the year for separate school purposes, and the provisions of section 205 in respect of the preparation and adoption of the estimates of all sums required for public school purposes by a divisional board of a school division apply, *mutatis mutandis*, to a separate school board for separate school purposes.

Where cost of separate levy payable by board

(2) Where rates or taxes in respect of separate schools are levied and collected by the council of a municipality under section 130 and the separate school board is unable in any year to submit to the council on or before the 1st day of March the rates required by the separate school board to be levied and collected in the municipality for separate school purposes, the later submission thereof does not relieve the council of its duty under section 130 to levy and collect such rates, and, where the municipality is required, by reason

of such later submission, to levy such rates by a separate levy from the amount levied for municipal purposes, the separate school board on the request of the treasurer of the municipality shall pay to the treasurer the cost of levying such rates.

(3) Subsection 5 of section 307 of *The Municipal Act* does not apply to a separate school board. 1972, c. 137, s. 3. Application of R.S.O. 1970, c. 284, s. 307(5)

125.—(1) The board of a separate school may in respect of the estimates adopted under section 124 impose and levy school rates and collect school rates and subscriptions upon and from persons sending children to or subscribing towards the support of such schools, and may appoint collectors for collecting the school rates or subscriptions who shall have all the powers in respect thereof possessed by collectors of taxes in municipalities. R.S.O. 1970, c. 430, s. 66 (1); 1972, c. 76, s. 22. Powers of trustees

(2) If a collector appointed by the board is unable to collect any part of a school rate charged on land liable to assessment by reason of there being no person resident thereon or no goods and chattels to distrain, the board shall make a return to the clerk of the municipality before the end of the then current year of such land and the uncollected rates thereon. Land on which there are rates uncollected

(3) The clerk shall make a return of such land and the arrears of separate school rates thereon to the appropriate municipal treasurer. Return

(4) The arrears shall be collected and accounted for by the treasurer in the same manner as the arrears of other taxes. Collection of rates

(5) The council of the township, village, town or city in which the separate school zone is situate shall make up the deficiency arising from such uncollected rates out of the general funds of the municipality. R.S.O. 1970, c. 430, s. 66. Deficiency

126. Where some of the supporters in a separate school zone reside in a municipality or in territory without municipal organization and in a secondary school district and other supporters in the separate school zone reside in another municipality or in territory without municipal organization and not in a secondary school district, and the separate school board, Levy for costs for transportation and board and lodging of secondary school pupils not resident in secondary school district

(*a*) provides daily transportation; or

(*b*) reimburses the parents or guardians for the cost of board, lodging and transportation once a week under subsection 10 of section 163,

for secondary school pupils whose parents or guardians are separate school supporters who do not reside in the secondary school district, such separate school board may levy the cost of such transportation or reimbursement for the preceding year, less the legislative grants paid thereon, on the supporters who do not reside in the secondary school district. R.S.O. 1970, c. 430, s. 67.

Determining school rates by equalizing factor

127.—(1) Where a separate school zone includes territory in two or more municipalities, the board shall, when it is setting the rates to be levied in any year, use an equalizing factor for each municipality in the zone which, when applied to the local assessment of properties in a municipality, would increase or decrease the local assessment on such properties to a sum equal to the local assessment on similar properties in the municipality in which the greatest number of its pupils reside.

Adoption of rate

(2) The board shall adopt a tax rate to be levied in the municipality in which the greatest number of its pupils reside and multiply that rate by the factor determined for each municipality in the zone, and the resulting rates calculated to the nearest tenth of a mill shall be the rates in the respective municipalities for separate school purposes in the zone.

Arbitrators, appointment

(3) For the purpose of determining the factors, the board shall appoint three arbitrators who are not trustees who shall meet and determine the factors.

Meeting

(4) The secretary of the board shall call the meeting of the arbitrators.

Determination of factors

(5) The arbitrators shall base their decision on a comparison of the local assessment on sample properties that are assessed to the support of the separate schools in the municipality in which the greatest number of its pupils reside with the local assessment on similar properties in the other municipalities in which any part of the separate school zone is situated, and the factors so determined shall be used by the board when it sets its rates at any time following the decision of the arbitrators and until the factors are altered by arbitration.

When factors to be determined

(6) The factors shall be determined,

(*a*) in the year in which the separate school is formed;

(*b*) in any year that is divisible evenly by 5;

(*c*) in any year in which the basis of assessing has been changed in any of the municipalities in which part of the separate school zone is situate; and

(*d*) in any year if the board so directs.

Appeal to board

(7) Five supporters of the separate school in the separate school zone or the majority of the supporters who reside in one municipality in the zone may, on or before the 1st day of November in any year, appeal to the board against the last determination of the factors, and the decision of the board is final.

Use of factors

(8) The factors determined in any year shall be used for the purposes of taxation in the following and subsequent years until the year following the next determination of the factors.

Cost of arbitration

(9) The cost of the arbitration shall be paid by the separate school board. R.S.O. 1970, c. 430, s. 68.

Trustees may copy assessment roll of municipality

128. The clerk or other officer of a municipality within or adjoining which a separate school is established, having possession of the assessor's or collector's roll of the municipality, shall permit any trustee or the collector of the board to make a copy of the roll in so far as it relates to the persons supporting the separate school. R.S.O. 1970, c. 430, s. 69.

Clerk to give trustees annual statement of supporters of separate schools

129. The clerk of a municipality in which there is a separate school board shall, once in each year, upon the written request of the board, deliver to it a statement in writing showing the names of all persons who are separate school suporters with the amount for which each person has been rated upon the assessment roll. R.S.O. 1970, c. 430, s. 70.

Request for collection of separate school rates by the municipality

130.—(1) The council of a municipality, if so requested on or before the 1st day of February in any year by a separate school board having jurisdiction in the municipality, shall levy and collect upon the property rateable for separate school purposes in the municipality and within the jurisdiction of the board, the rates or taxes imposed thereon by the board, and such request shall be deemed to continue from year to year unless terminated by the board giving notice to the council on or before the 1st day of February in any year. R.S.O. 1970, c. 430, s. 71 (1); 1971, c. 70, s. 3.

Expenses of collection

(2) Any expenses attending the assessment, collection or payment of school rates by the municipal corporation shall be borne by the corporation, and the rates and taxes collected

for separate school purposes shall be paid by the corporation to the treasurer of the board and the provisions of section 208 shall apply *mutatis mutandis* to such rates and taxes. R.S.O. 1970, c. 430, s. 71 (2), *amended*.

Borrowing powers of separate school trustees

131.—(1) The board of a separate school may pass by-laws for borrowing money, by mortgages or other instruments, upon the security of the schoolhouse property and premises and any other real or personal property vested in the board and upon the separate school rates for the purpose of paying the cost of school sites, school buildings or additions or repairs thereto or for any other school purposes. R.S.O. 1970, c. 430, s. 73 (1), *amended*.

Terms of payment

(2) The principal money may be made payable in annual or other instalments, with or without interest, and the board, in addition to all other rates or money that it may levy in any one year, may levy and collect in each year such further sum as may be requisite for paying all principal money and interest falling due in that year, and the same shall be levied and collected in each year in the same manner and from the like persons and property by, from, upon or out of which other separate school rates may be levied and collected.

Debentures

(3) Such mortgages and other instruments may in the discretion of the board be made in the form of debentures, and the debentures are a charge on the same property and the rates as in the case of mortgages thereof made by the board.

Maturity

R.S.O. 1970, c. 284

(4) The debt to be so incurred and the debentures to be issued therefor may be made payable in thirty years at the furthest, and in equal annual instalments of principal and interest, or in any other manner authorized by *The Municipal Act* in the case of debentures issued under that Act. R.S.O. 1970, c. 430, s. 73 (2-4).

Sinking fund

(5) Where the debt is not payable by instalments, the board shall levy in each year during the currency of the debt in addition to the amount required to pay the interest falling due in such year a sum such that the aggregate amount so levied during the currency of the debt, with the estimated interest on the investments thereof, will be sufficient to discharge the debt when it becomes payable.

Investment of fund

R.S.O. 1970, cc. 254, 284

(6) The sum referred to in subsection 5 shall be deposited with a chartered bank or a trust company that is registered under *The Loan and Trust Corporations Act*, and such sum and any income resulting therefrom shall be invested by such bank or trust company in the manner provided in

The Municipal Act for sinking funds, and subsections 4 to 9 of section 291 of *The Municipal Act* apply *mutatis mutandis* except that reference therein to the Ministry of Treasury, Economics and Intergovernmental Affairs shall be deemed to be a reference to the Ministry of Education. 1972, c. 76, s. 25.

Publication of notice of by-law

(7) Before a by-law for borrowing money for a permanent improvement is acted upon, notice of the passing of the by-law shall be published for three consecutive weeks in a newspaper having general circulation within the separate school zone stating,

(*a*) the purpose for which the money is to be borrowed;

(*b*) the amount to be borrowed and the security therefor;

(*c*) the terms of repayment including the rate of interest,

and, if no application to quash the by-law is made for three months after publication of notice of the passing thereof, the by-law is valid notwithstanding any want of substance or form in the by-law or in the time or manner of passing the by-law.

Amounts

(8) The debentures issued under the by-law may be for such amounts as the board considers expedient. R.S.O. 1970, c. 430, s. 73 (6, 7).

Share of legislative grants

132.—(1) Every separate school shall share in the legislative grants in like manner as a public school.

Right of separate schools to a share of municipal grants

(2) Every separate school is entitled to share in all grants, investments and allotments for public school purposes made by any municipal authority according to the average number of pupils enrolled at the school during the next preceding twelve months, or during the number of months that may have elapsed from the establishment of a new separate school, as compared with the whole average number of pupils enrolled at school in the same city, town, village or township.

Apportionment

(3) Where the grant is made by a council of a county or a regional municipality it shall be apportioned in like manner as the legislative grant.

Not to share in public school assessment

(4) A separate school is not entitled to share in any school money arising or accruing from local assessment for public school purposes within the city, town, village or township in which the school is situate. R.S.O. 1970, c. 430, s. 74, *amended*.

Visitors

Separate school visitors

133. A parent or guardian of a child attending a separate school and a member of the board that operates the school may visit such school, and a member of the Assembly and a clergyman of the Roman Catholic Church may visit a separate school in his constituency or in the area where he has pastoral charge, as the case may be. R.S.O. 1970, c. 430, s. 75, *amended*.

FORM 1

FORM OF INDEX BOOK

[*Section 119 (1)*]

Names	Notices claiming exemption, when received	Remarks
Allen, John.....	3rd February, 19..	
Ardagh, Joseph....	3rd February, 19..	Notice of withdrawal received 1st January, 19...
Ashbridge, Robert..	3rd February, 19..	Disallowed by Assessment Review Court, 1st June, 19...

R.S.O. 1970, c. 430, Form 1.

FORM 2

NOTICE BY CORPORATION AS TO APPLICATION OF SCHOOL TAX

[*Section 123 (1)*]

To the Clerk of (*describing the municipality*)

Take notice that (*here insert the name of the corporation so as to sufficiently and reasonably designate it*), pursuant to a resolution in that behalf of the directors, requires that hereafter and until this notice is either withdrawn or varied, the whole or so much of the assessment for land and business or other assessments of the corporation within (*giving the name of the municipality*) as is hereinafter designated, shall be entered, rated and assessed for separate school purposes, namely, (*here insert fraction of assessment so designated*) of the land and business or other assessments.

Given on behalf of the company (*here insert date*).

Secretary of the Company.

R.S.O. 1970, c. 430, Form 2, *amended*.

PART V

PROTESTANT SEPARATE SCHOOLS

134.—(1) Subject to subsection 3, five or more heads of families resident in a municipality and being Protestants may, before the 1st day of July in any year, apply in writing, in the case of a township, to the council of the township or, in the case of an urban municipality, to the public school board for permission to establish in the municipality one or more separate schools for Protestants. Application to establish Protestant separate school

(2) Subject to subsection 3, the council or the public school board, as the case may be, within thirty days of the receipt of a proper application shall grant permission to the applicants to establish in the municipality one or more separate schools for Protestants. Permission to establish

(3) A Protestant separate school shall not be established in a municipality except where the teacher or teachers in the public school or schools in the municipality are Roman Catholics. R.S.O. 1970, c. 430, s. 1. Restrictions on establishment

(4) A Protestant separate school is established on the day following the granting of permission to establish the school by the council or public school board, as the case may be. R.S.O. 1970, c. 430, s. 4. Effective date

135.—(1) Every person paying rates on property that he occupies as owner or tenant in a municipality in which a Protestant separate school is established, who, by himself or his agent, on or before the 30th day of September in any year, gives to the clerk of the municipality notice in writing that he is a Protestant and that he wishes to be a Protestant separate school supporter, is exempt from the payment of all rates imposed on such property for the support of public schools or for the purchase of land or the erection of buildings for public school purposes for the following year and every subsequent year while he continues to be a Protestant separate school supporter with respect to such property. Notice to be supporter, exemption from public school rates

(2) The notice is not required to be renewed annually. No renewal required

(3) Every clerk of a municipality, upon receiving the notice shall deliver a certificate to the person giving the notice to the effect that the notice has been given and showing the date thereof. Certificate of notice

(4) Any person who fraudulently gives such notice, or wilfully makes any false statement therein, does not thereby secure any exemption from the rates and in addition is guilty of an offence and liable to a fine of not more than $100. Penalty for wilful false statements in notice

As to rates imposed before Protestant separate school established

(5) Nothing in this section exempts any person from paying any rate for public school purposes imposed before the establishment of the Protestant separate school. R.S.O. 1970, c. 430, s. 5, *amended*.

Withdrawal of support

136. A Protestant separate school supporter who desires to withdraw his support from a Protestant separate school shall give notice thereof in writing to the clerk of the municipality in which he resides on or before the 30th day of September in any year, otherwise he shall be deemed to be a Protestant separate school supporter. R.S.O. 1970, c. 430, s. 6.

Index book

137.—(1) The clerk of each municipality in which a Protestant separate school is established shall keep an index book to record the name of each Protestant who has declared himself to be a supporter of a Protestant separate school in the same manner *mutatis mutandis* as is provided for the keeping of an index of each Roman Catholic who has declared himself to be a supporter of a Roman Catholic separate school.

Inspection

(2) The index book shall be open to inspection by any ratepayer.

Filing of notices

(3) The clerk shall file and carefully preserve all notices given to the clerk of the municipality under sections 135 and 136. R.S.O. 1970, c. 430, s. 7 (1-3).

Clerk to be guided by index book

(4) The clerk and the appropriate assessment commissioner shall be guided by the entries in the index book in ascertaining those who have given the prescribed notices. R.S.O. 1970, c. 430, s. 7 (4); 1972, c. 76, s. 1, *amended*.

Not to share in public school assessment

138.—(1) Protestant separate schools shall not share in money raised by local municipal assessment for public school purposes.

Share of legislative grants

(2) Every Protestant separate school shall share in the legislative grants in like manner as a public school. R.S.O. 1970, c. 430, s. 8.

Reports

139.—(1) Every Protestant separate school board and principal of a Protestant separate school in a municipality shall transmit reports to the Ministry in such form and at such times as may be required by the Minister.

Use of assessor's roll by board

(2) The clerk or other officer of the municipality in which a Protestant separate school is established who has possession of the assessor's or collector's roll of the municipality shall allow any trustee or the authorized collector of the board to make a copy of the roll. R.S.O. 1970, c. 430, s. 9, *amended*.

140. Every person who is assessed as a Protestant separate school supporter and whose name appears on the list of voters of the municipality in which the land in respect of which he or she is assessed is situate, and the wife or husband of such supporter, if she or he is a Protestant, is entitled to vote at the election of trustees for the Protestant separate school board and on any school question having to do with the Protestant separate school or board. R.S.O. 1970, c. 430, s. 10, *amended*. Qualification of a voter

141.—(1) A Protestant separate school trustee shall have the same qualifications as a public school trustee, except that he shall be a supporter of a Protestant separate school. Qualification of a trustee

(2) A Protestant separate school board shall have the same number of trustees as a Roman Catholic separate school board would have if established in the same municipality, and the trustees may be elected in the same manner as Roman Catholic separate school trustees may be elected, and the provisions of Part IV with respect to the election of trustees of Roman Catholic rural and urban separate schools apply *mutatis mutandis* to the election of trustees of Protestant rural and urban separate school boards. R.S.O. 1970, c. 430, s. 11. Election of trustees

142. The trustees of every Protestant separate school board are a body corporate under the name of "The Protestant Separate School Board of the ....." (*inserting the name of the city, town, village or township*). R.S.O. 1970, c. 430, s. 12. Corporate name of board

143. A Protestant separate school board has the same powers as a district school area board. R.S.O. 1970, c. 430, s. 13, *amended*. Powers of board

144. A Protestant separate school board is discontinued in the same manner as a Roman Catholic separate school board is discontinued and may be re-established in the manner provided in section 134. R.S.O. 1970, c. 430, s. 14. Discontinuing board

145. Subsections 3 and 4 of section 97, subsection 2 of section 98, sections 120, 121 and 122 and clause *d* of subsection 1 of section 171 apply in respect of Protestant separate schools and Protestant separate school boards. R.S.O. 1970, c. 430, s. 15. Application of other sections

PART VI

BOARDS

Duties and Powers

Duties of boards:

146. Every board shall,

appoint secretary-treasurer

1. appoint a secretary and a treasurer or a secretary-treasurer who, in the case of a district school area board or a board of three elected members, may be a member of the board;

security of treasurer

2. take proper security from the treasurer or secretary-treasurer;

order payment of bills

3. give the necessary orders on the treasurer for payment of all moneys expended for school purposes and of such other expenses for promoting the interests of the schools under the jurisdiction of the board as may be authorized by this Act or the regulations and by the board;

meetings

4. fix the times and places for the meetings of the board and the mode of calling and conducting them, and ensure that a full and correct account of the proceedings thereat is kept;

head office

5. establish and maintain a head office and notify the Ministry of its location and address and notify the Ministry of any change in the location or address of the head office within ten days of such change;

provide instruction and accommodation

6. provide instruction and adequate accommodation during each school year for the pupils who have a right to attend a school under the jurisdiction of the board;

repair property

7. keep the school buildings and premises in proper repair and in a proper sanitary condition, provide suitable furniture and equipment and keep it in proper repair, and protect the property of the board;

insurance

8. make provision for insuring adequately the buildings and equipment of the board and for insuring the board and its employees and volunteers who are assigned duties by the principal against claims in respect of accidents incurred by pupils while under the jurisdiction or supervision of the board;

conduct schools

9. ensure that every school under its charge is conducted in accordance with this Act and the regulations;

10. keep open its schools during the whole period of the school year determined under the regulations, except where it is otherwise provided under this Act; school open

11. appoint for each school that it operates a principal and an adequate number of teachers, all of whom shall be qualified according to this Act and the regulations; appoint principal and teachers

12. provide, without charge, for the use of the pupils attending the school or schools operated by the board, the textbooks that are required by the regulations to be purchased by the board; provide textbooks

13. where it furnishes transportation for pupils in a vehicle that is owned by the board, provide and carry with an insurer licensed under *The Insurance Act* for each such vehicle at least the amount of insurance that is required to be provided in respect of such a vehicle by the licensee of a school vehicle under *The Public Vehicles Act*; vehicle insurance R.S.O. 1970, cc. 224, 392

14. ascertain and report to the Ministry at least once in each year the names and ages of all children of compulsory school age within its jurisdiction who are not enrolled in any school or private school; report children not enrolled

15. transmit to the Minister all reports and returns required by this Act and the regulations; reports

16. issue to an employee, upon the termination of his employment with the board, a statement of the sick leave credits standing to his credit with the board at the time of such termination. R.S.O. 1970, c. 385, s. 51 (1) (*a*, *c*), (3) (*c*); R.S.O. 1970, c. 424, ss. 33, 34, par. 2; R.S.O. 1970, c. 425, s. 6 (1); R.S.O. 1970, c. 430, s. 50 (3) (*d*); 1972, c. 77, s. 17; 1973, c. 37, s. 6 (2), *amended*. statement of sick leave credits

147.—(1) A board may, Powers of boards:

1. appoint such committees as it considers expedient; R.S.O. 1970, c. 424, s. 34, par. 1. committees

2. subject to Part X, appoint and remove such officers and servants and, subject to Part IX, appoint and remove such teachers, as it considers expedient, determine the terms on which such officers, servants and teachers are to be employed, prescribe their duties and fix their salaries, except that in the case of a secretary of a board who is a member of the appoint employees

board, the board may pay only such compensation for his services as is approved by the electors at a meeting of the electors; R.S.O. 1970, c. 385, s. 35 (2); 1972, c. 77, s. 18 (1), *amended*.

voluntary assistants

3. permit a principal to assign to a person who volunteers to serve without remuneration such duties in respect of the school as are approved by the board and to terminate such assignment; 1972, c. 77, s. 18 (2).

supervisors

4. appoint supervisors of the teaching staff for positions that are provided for in any Act or regulation administered by the Minister and every appointee shall hold the qualifications and perform the duties required in the Act or regulations; R.S.O. 1970 c. 424, s. 34, par. 20.

psychiatrist or psychologist

5. appoint one or more,

i. psychiatrists who are on the register of specialists in psychiatry of the Royal College of Physicians and Surgeons of Canada or of the College of Physicians and Surgeons of Ontario,

ii. psychologists who are legally qualified medical practitioners or hold a certificate of registration under *The Psychologists Registration Act*; R.S.O. 1970, c. 424, s. 34, par. 3, *amended*.

R.S.O. 1970, c. 372

attendance areas

6. determine the number, kind and organization of schools to be established and maintained, and the attendance area for each such school; R.S.O. 1970, c. 424, s. 34, par. 5.

courses of study

7. provide instruction in courses of study that are prescribed or approved by the Minister, developed from curriculum guidelines issued by the Minister or approved by the board where the Minister permits the board to approve courses of study;

computer programming

8. enter into an agreement in respect of the use of a computer or a system of computer programming; *New*.

playgrounds, parks, rinks

9. operate the school ground as a park or playground and rink during the school year or in vacation or both, and provide and maintain such equipment as it considers advisable, and provide such supervision as it considers proper, provided the proper conduct of the school is not interfered with; R.S.O. 1970, c. 424, s. 34, par. 8; 1973, c. 92, s. 10 (1).

10. organize and carry on gymnasium classes in school buildings for pupils or others during the school year or in vacation or both, and provide supervision and training for such classes, provided the proper conduct of the school is not interfered with; R.S.O. 1970, c. 424, s. 34, par. 9; 1973, c. 92, s. 10 (2). gymnasiums

11. purchase milk to be consumed by the pupils in the schools under the jurisdiction of the board during school days in accordance with the terms and conditions prescribed by the regulations; R.S.O. 1970, c. 424, s. 34, par. 10. milk

12. provide school supplies, other than the textbooks that it is required to provide under paragraph 12 of section 146, for the use of pupils; provision of supplies, etc.

13. establish and maintain school libraries and resource centres; R.S.O. 1970, c. 424, s 34, pars. 11, 12, *amended*. libraries

14. establish kindergartens and junior kindergartens; R.S.O. 1970, c. 385, s. 51 (2) (*c*) (i), *amended*. kindergartens, junior kindergartens

15. provide that the signature of the treasurer and of any other person authorized to sign cheques issued by the treasurer may be written or engraved, lithographed, printed or otherwise mechanically reproduced on cheques; 1972, c. 77, s. 18 (8). signatures mechanically reproduced

16. pay the travelling expenses and membership fees of any member of the board or of any teacher or officer of the board, incurred in attending meetings of an educational association and may make grants and pay membership fees to any such organization; membership fees and travelling expenses

17. pay the costs, or any part thereof, incurred by any member of the board or by any teacher, officer or other employee of the board in successfully defending any legal proceeding brought against him, legal costs

    i. for libel or slander in respect of any statements relating to the employment, suspension or dismissal of any person by the board published at a meeting of the board or of a committee thereof, or

    ii. for assault in respect of disciplinary action taken in the course of duty;

invest funds

18. invest funds received from an insurance claim, gift, legacy or sale of property in such securities as a trustee may invest in under *The Trustee Act*; R.S.O. 1970, c. 424, s. 34, pars. 15-17.

R.S.O. 1970, c. 470

idem

19. invest moneys not required immediately by the board in bonds, debentures or other evidences of indebtedness of, or guaranteed by, the Government of Canada or the Province of Ontario, in term deposits with any chartered bank or in term deposits with, or guaranteed investment certificates or debentures of, any trust company or loan corporation that is registered under *The Loan and Trust Corporations Act*, or lend such moneys to any municipality or board by way of promissory note of the municipality or board, provided that the bonds, debentures or other evidences of indebtendness, term deposits, guaranteed investment certificates or promissory notes, become due and payable before the moneys invested therein are required by the board, and all interest thereon shall be credited to the fund from which the moneys are invested; 1971, c. 90, s. 5 (1); 1973, c. 92, s. 10 (3).

R.S.O. 1970, c. 254

borrowing from funds

20. notwithstanding any other Act, borrow, for any purpose for which the board has authority to spend money, any moneys in any fund established by the board that are not immediately required by the board for the purposes of such fund, but such borrowing shall not extend beyond the term of office of the members of the board and, where secondary school moneys are borrowed for public school purposes or public school moneys are borrowed for secondary school purposes, the board shall pay interest to the fund from which such moneys are borrowed at a rate not less than that being earned by the fund at the date of borrowing; 1973, c. 92, s. 10 (4).

student fees

21. subject to the provisions of this Act and the regulations, fix the fees to be paid by or on behalf of pupils, and the times of payment thereof, and when necessary enforce payment thereof by action in the small claims court, and exclude any pupil by or on behalf of whom fees that are legally required to be paid are not paid after reasonable notice; R.S.O. 1970, c. 424, s. 34, par. 21; 1971, c. 90, s. 5 (2), *amended*.

permit use of school and school buses

22. permit the school buildings and premises and school buses owned by the board to be used for any educational or other lawful purpose; R.S.O. 1970, c. 424, s. 34, par. 23, *amended*.

23. provide for surgical treatment of children attending the school who suffer from minor physical defects, where in the opinion of the teacher and, where a school nurse and medical officer are employed, of the nurse and medical officer, the defect interferes with the proper education of the child, and include in the estimates for the current year the funds necessary for cases where the parents are not able to pay, provided that no such treatment shall be undertaken without the consent of the parents or guardian of the child; R.S.O. 1970, c. 385, s. 51 (2) (*g*). surgical treatment

24. establish and maintain cadet corps; R.S.O. 1970, c. 424, s. 34, par. 25, *amended*. cadet corps

25. provide for the promotion and encouragement of athletics and for the holding of school games; athletics

26. provide, during the school year or at other times, activities and programs on or off school premises, including field trips, and exercise jurisdiction over those persons participating therein; activities

27. appoint one or more teachers qualified in guidance according to the regulations to collect and distribute information regarding available occupations and employments, and to offer such counsel to the pupils as will enable them to plan intelligently for their educational and vocational advancement; R.S.O. 1970, c. 424, s. 34, pars. 26-28. guidance

28. conduct free lectures open to the public and include in the estimates for the current year the expenses thereof; R.S.O. 1970, c. 424, s. 34, par. 29, *amended*. public lectures

29. establish summer schools for pupils; summer schools

30. establish and conduct during the school year courses for teachers; courses for teachers

31. establish evening classes; R.S.O. 1970, c. 424, s. 34, pars. 30-32. evening classes

32. erect and maintain any wall or fence considered necessary by the board for enclosure of the school premises; R.S.O. 1970, c. 424, s. 33, par. 9. erect fences

33. contribute toward the support of school fairs; R.S.O. 1970, c. 385, s. 51, (2), (*e*). school fairs

student activities

34. authorize such school activities as pertain to the welfare of the pupils and exercise jurisdiction in respect thereof; R.S.O. 1970, c. 424, s. 34, par. 33, *amended*.

cafeteria

35. operate a cafeteria for the use of the staff and students; R.S.O. 1970, c. 424, s. 34, par. 35.

records management

36. institute a program of records management that will, subject to the regulations in respect of pupil records,

i. provide for the archival retention by the board or the Archivist of Ontario of school registers, minute books of the board and its predecessors, documents pertaining to boundaries of school sections, separate school zones and secondary school districts, original assessment and taxation records in the possession of the board and other records considered by the board to have enduring value or to be of historical interest, and

ii. establish, with the written approval of the auditor of the board, schedules for the retention, disposition and eventual destruction of records of the board and of the schools under its jurisdiction other than records retained for archival use; 1972, c. 77, s. 18 (5).

education of children in charitable organizations

37. employ and pay teachers, when so requested in writing by a charitable organization having the charge of children of school age, for the education of such children, whether such children are being educated in premises within or beyond the limits of the jurisdiction of the board, and pay for and furnish school supplies for their use; R.S.O. 1970, c. 424, s. 34, par. 38.

programs in detention homes

R.S.O. 1970, c. 369

1974, c. 2

38. employ and pay teachers to conduct an education program in a juvenile detention and observation home established under *The Provincial Courts Act*, a psychiatric facility as defined in the regulations and a facility designated under *The Developmental Services Act, 1974* in which an educational program is not provided by the Ministry, provide instructional supplies and consultative help for the pupils therein and permanent improvements for the classrooms connected therewith; 1972, c. 77, s. 18 (6), *amended*.

39. provide for maternity leave for a teacher, not exceeding two years for each pregnancy; R.S.O. 1970, c. 424, s. 34, par. 40, *amended*. maternity leave

40. establish, subject to the regulations, special education programs to provide special education services for children who require such services; R.S.O. 1970, c. 424, s. 34, par. 42. special education

41. when requested by the board of a cerebral palsy treatment centre school, a crippled children's treatment centre school, a hospital school or a sanatorium school, and with the approval of the Minister, by agreement, assume the assets and liabilities of such board and continue to operate such a school, and, upon the effective date of the agreement between the two boards, the board making the request is dissolved; 1971, c. 90, s. 5 (4). assumption of treatment centres, etc.

42. where a recreation committee or a joint recreation committee has been appointed for territory without municipal organization within the jurisdiction of the board, exercise the powers and duties of a municipal council with respect to preparing estimates of the sums required during the year for the purposes of the committee or joint committee, and levying rates and collecting taxes for such purposes on the rateable property supporting the board in such territory, and where such a joint recreation committee has been appointed, apportion the costs of such committee by agreement with the other board concerned; R.S.O. 1970, c. 424, s. 34, par. 45. recreation committees

43. with the approval of the Minister, enter into an agreement with a university, college of a university, or the board of governors of a polytechnical institute or of a college of applied arts and technology in respect of the provision, maintenance and use of educational or recreational facilities on the property of either of the parties to the agreement. agreement for provision and use of recreational facilities

44. pass a resolution referred to in subsection 2 of section 81 of *The Municipal Elections Act, 1972*. *New*. election recounts 1972, c. 95

(2) In addition to any other remedy possessed by a board in territory without municipal organization for the recovery of rates imposed under the authority of this Act, the board, with the approval of the Minister, may bring an action in a court of competent jurisdiction for the recovery of any rates in arrear against the person assessed therefor. R.S.O. 1970, c. 424, s. 35, *amended*. Collection of rates in territory without municipal organization by action

148.—(1) Any person may, with the approval of the board concerned, establish scholarships, bursaries or prizes. Establishment of scholarships, etc.

Idem

(2) A board may award bursaries or prizes to its pupils under such terms and conditions as the board may prescribe. R.S.O. 1970, c. 425, s. 68.

Vocational Courses

Vocational courses

149.—(1) A secondary school board may provide vocational courses of study in one or more of its schools.

Courses of study

(2) Vocational courses of study may comprise,

(*a*) full-time day courses of study;

(*b*) part-time day courses of study; and

(*c*) evening courses of study.

Admission procedures

(3) A secondary school board may provide for the admission of a pupil to a vocational course and may determine the procedures for admission to such course. R.S.O. 1970, c. 425, s. 11 (1, 2).

Admission of adult

(4) Where a principal of a school is satisfied that an adult is competent to receive instruction in a vocational course, the adult may, without regard to his school standing, be admitted to,

(*a*) a special full-time day course of study;

(*b*) a part-time day course of study; or

(*c*) an evening course of study,

in the school. R.S.O. 1970, c. 425, s. 12 (4).

Advisory committee

150.—(1) A secondary school board that provides or plans to provide a vocational course may, by resolution, appoint an advisory committee to be known as the advisory committee for.....(*inserting the name of the vocational course*) and composed of such persons, all or any of whom may be members of the board, appointed for such term, not extending beyond the term of office of the members of the board, as the board considers necessary to advise the board on matters relating to the vocational course.

Allowance

(2) A secondary school board may pay to each person appointed under subsection 1 who is not a member of the board such allowance as the board may determine for each month for which he is appointed, but such allowance shall not exceed one-half of the amount determined under subsection 1 of section 164 based on the enrolment on the 30th day of September in the preceding year in all secondary schools that, on the 1st day of January of the current year, are operated by the board. 1972, c. 75, s. 4, *amended*.

Benefits

151. A board may, Powers of board

1. provide, by contract with an insurer licensed under *The Insurance Act*, accident, etc., insurance R.S.O. 1970, c. 224

   i. group accident insurance to indemnify a member of a board or of an advisory committee appointed by a board or his estate against loss in case he is accidentally injured or killed, and

   ii. group public liability and property damage insurance to indemnify a member of a board or of an advisory committee appointed by a board or his estate in respect of loss or damage for which he has become liable by reason of injury to persons or property or in respect of loss or damage suffered by him by reason of injury to his own property,

   while travelling on the business of the board or in the performance of his duties as a member of the board or of an advisory committee either within or outside the area over which the board has jurisdiction; R.S.O. 1970, c. 424, s. 34, par. 36.

2. where, in co-operation with business, industry or other enterprise, it provides for pupils training programs designed to supplement the courses given in its schools, provide, by contract with an insurer under *The Insurance Act*, accident insurance to indemnify such pupils against loss in case they are accidentally injured while participating in such a program and public liability insurance to insure such pupils and the board against loss or damage to the person or property of others while the pupils are participating in such a program; R.S.O. 1970, c. 424, s. 34, par. 39, *amended*. accident and public liability insurance re work-experience programs

3. provide, by contract with an insurer under *The Insurance Act*, accident and life insurance for pupils, the cost of which is to be paid on a voluntary basis by the parents or guardians. R.S.O. 1970, c. 424, s. 34, par. 41. insurance for pupils

152.—(1) Subject to *The Health Insurance Act, 1972*, a board by resolution may provide, Insurance, hospital and health services 1972, c. 91

(*a*) by contract either with an insurer licensed under *The Insurance Act* or with an association registered

R.S.O. 1970, c. 360

under *The Prepaid Hospital and Medical Services Act*,

(i) group life insurance for its employees or any class thereof,

(ii) group accident insurance or group sickness insurance for its employees or any class therof and their spouses and children, and

(iii) hospital, medical, surgical, nursing or dental services, or payment therefor, for employees or any class thereof and their spouses and children; and

(*b*) for payment by the board of the whole or part of the cost of any insurance or services provided under this subsection.

Contributions re insured services

1972, c. 91

(2) A board may by resolution provide for paying the whole or part of the cost to employees of insured services under *The Health Insurance Act, 1972*. 1972, c. 77, s. 24.

Participation of retired person in contract

(3) A board may retain a person who retires from employment with the board before he attains the age of sixty-five years in a group established for the purposes of a contract referred to in clause *a* of subsection 1 until he attains such age if he pays the full premium required to be paid to retain his participation in the contract. 1973, c. 92, s. 13.

Pensions

R.S.O. 1970, c. 324

153.—(1) A board, by resolution, may provide pensions for employees or any class thereof under *The Ontario Municipal Employees Retirement System Act*.

Idem

R.S.O. 1970, c. 284

(2) Notwithstanding subsection 1, a board that makes contributions to an approved pension plan, as defined in subsection 1 of section 250 of *The Municipal Act*, may continue to provide pensions under such plan, and the said section 250 applies *mutatis mutandis*. 1972, c. 77, s. 23.

Interpretation

(3) In this section, "employee" does not include a teacher or supervisory officer or an administrative officer who holds a certificate of qualification as a teacher and who is eligible to contribute to the Teachers' Superannuation Fund.

Employees of newly organized board

(4) An employee of a divisional board who was a contributor or who was entitled to be a contributor under *The Ontario Municipal Employees Retirement System Act*, by reason of his employment with a former board on the 31st day of December, 1968, shall continue to be a contributor or to be entitled to be a contributor, as the case may

be, and the divisional board shall assume in respect of such employee all the rights and obligations of the former board, but in respect of other employees, the divisional board, before such employees may participate under such Act, shall pass a resolution electing to become a participant under such Act, as required by the regulations made thereunder, and stating the effective date.

Assumption of board of rights and obligations of former board

(5) A divisional board that is required to make the contribution of a former board to an approved pension plan, as defined in section 250 of *The Municipal Act*, in respect of an employee who was a contributor to such approved pension plan on the 31st day of December, 1968, shall assume all the rights and obligations of such former board under the approved pension plan in respect of such employee. R.S.O. 1970, c. 424, s. 43 (2-4).

R.S.O. 1970, c. 284

Saving

(6) Nothing in this section affects any pension plan established and approved by the Minister before the 6th day of April, 1954 under section 39 of *The High Schools Act*, section 129 of *The Public Schools Act* or section 83 of *The Separate Schools Act*. R.S.O. 1970, c. 424, s. 99 (1).

R.S.O. 1950, cc. 165, 316, 356

Retirement allowances

154.—(1) A board may grant an annual retirement allowance, payable weekly, monthly or otherwise for such period as the board may determine, to any employee of the board who has been in the service of the board for at least twenty years and who,

(*a*) is retired because of age; or

(*b*) while in the service has become incapable through illness or otherwise of efficiently discharging his duties,

provided that no retirement allowance shall be granted under this section which, together with the amount of any pension payments payable to the employee in any year under a pension plan of the board or any municipality or under *The Teachers' Superannuation Act*, will exceed three-fifths of his average annual salary for the preceding three years of his service.

R.S.O. 1970, c. 455

Widow or widower

(2) Where an employee,

(*a*) has been granted an annual retirement allowance under subsection 1 and subsequently dies; or

(*b*) would have been eligible, except for his death, for such an allowance,

the board may grant to the widow or widower of such employee for such period as the board may determine an annual allowance, not exceeding one-half of the maximum allowance that may be granted under subsection 1.

Interpretation

(3) In subsection 1, "pension payments" means, in the case of pension payments under a board or municipal plan, only such payments that result from joint contributions of the employer and employee and does not include any such payments that result solely from contributions of the employee.

Limitation on application of section

(4) Where the board has a pension plan in operation, or where a municipality has a pension plan in operation in which the employees of the board are included, this section applies only to employees who were in the employ of the board on or before the 1st day of July, 1954, and in any event does not apply to any employee who enters the service of the board after the 1st day of July, 1956. R.S.O. 1970, c. 424, s. 45.

Idem

R.S.O. 1950, cc. 165, 316

(5) Nothing in this section affects any retirement allowance granted before the 6th day of April, 1954 under section 60 of *The High Schools Act* or section 128 of *The Public Schools Act*. R.S.O. 1970, c. 424, s. 99 (3).

Sick leave credits

155.—(1) A board, by resolution, may establish a system of sick leave credit gratuities for employees or any class thereof provided that on the termination of his employment no employee is entitled to more than an amount equal to his salary, wages or other remuneration for one-half the number of days standing to his credit and in any event not in excess of the amount of one-half year's earnings at the rate received by him immediately prior to termination of employment.

Allowing of credits on transfer of employment

(2) Where an employee of a board that has established a sick leave credit plan under this or any other general or special Act becomes an employee of another board that has also established a sick leave credit plan under this or any other general or special Act, the latter board shall, subject to the limitation in subsection 5, place to the credit of the employee the sick leave credits standing to the credit of the employee in the plan of the first-mentioned board. R.S.O. 1970, c. 424, s. 44 (1, 2).

Where transferred because of change in jurisdiction of board

(3) Notwithstanding subsection 2, where the contract of employment of an employee of a board has become an obligation of another board by or under any Act, the latter board shall place to the credit of the employee the sick leave credits and the termination of employment benefits standing to his credit in the system of sick leave credit gratuities of the first-mentioned board. 1973, c. 118, s. 1.

(4) Where an employee of a municipality or a local board, as defined in *The Municipal Affairs Act*, except a school board, that has established a sick leave credit plan under any general or special Act, becomes an employee of a board that has established a sick leave credit plan under this or any other general or special Act, the board shall, subject to the limitation in subsection 5, place to the credit of the employee the sick leave credits standing to the credit of the employee in the plan of such municipality or local board. Idem R.S.O. 1970, c. 118

(5) The amount of sick leave credits placed to the credit of an employee under subsection 2 or 4 shall not exceed the amount of cumulative sick leave credits permitted under the plan to which the credits are placed. Limitation

(6) Subsections 2 and 4 apply only where the transfer of employment from a school board to another school board or from a municipality or a local board to a school board is made without intervening employment that interrupts the continuity of employment under which sick leave credits are accumulated. Application of subss. 2, 4, where intervening employment

(7) Notwithstanding subsection 6, intervening employment with the Ministry of Education does not preclude the application of subsections 2 and 4. R.S.O. 1970, c. 424, s. 44 (3-6). Exception

(8) Where an employee of a board that, before the 1st day of June, 1968, had established a sick leave credit plan became, on the 1st day of January, 1969, an employee of a divisional board or of a county or district combined separate school board, such board shall place to the credit of the employee the sick leave credits and the termination of employment benefits standing to his credit in the plan of the first-mentioned board. R.S.O. 1970, c. 425, s. 30 (11); R.S.O. 1970, c. 430, s. 86 (10). Applicability of sick leave credits

(9) Nothing in this section affects any sick leave credit plan established and approved by the Minister before the 6th day of April, 1954 under section 40 of *The High Schools Act*, section 130 of *The Public Schools Act* or section 84 of *The Separate Schools Act*. R.S.O. 1970, c. 424, s. 99 (2). Idem R.S.O. 1950, cc. 165, 316, 356

Agreements

156.—(1) A board may, subject to subsection 2, enter into an agreement with another board to provide, for the other board for such periods and under such conditions as are specified in the agreement, Agreements to provide accommodation or services for another board

(*a*) accommodation for administrative purposes;

(*b*) accommodation for instructional purposes;

(*c*) the services of teachers and other personnel; or

(*d*) the transportation of pupils,

that the board by this Act is authorized or required to provide for its own pupils.

Where building, additions, etc., required

(2) Where the construction of a school building or an addition, alteration or improvement to a school building is required under an agreement made under subsection 1, the agreement shall make provision for the payment of the cost of such building, addition, alteration or improvement and is not effective until approved by the Minister. 1972, c. 77, s. 19, *amended*.

Where cost borne by board not providing accommodation

(3) Where, under an agreement, the board that does not provide the additional accommodation is required to bear and pay the cost thereof, the additional accommodation shall, for the purposes of issuing debentures, be deemed to be a permanent improvement of such board. R.S.O. 1970, s. 385, s. 6.

Fees, exception

(4) An agreement under this section may, notwithstanding the regulations, provide for the calculation and payment of fees in respect of pupils covered by the agreement. R.S.O. 1970, c. 385, s. 1 (*c*), *amended*.

Interpretation

157.—(1) In this section,

(*a*) "board" includes The Metropolitan Toronto School Board;

(*b*) "municipality" includes a county and a district, metropolitan or regional municipality and a local board of a municipality or county or of a district, metropolitan or regional municipality, except a school board.

Agreements for joint use of facilities, etc.

(2) One or more boards and the council of a municipality or the councils of two or more municipalities may enter into an agreement,

(*a*) in respect of the use of existing facilities owned by one of such parties; or

(*b*) for the purpose of establishing and providing for the maintenance and operation of facilities on the property of any of the parties to such agreement,

for such cultural, recreational, athletic, educational, administrative or other community purposes as are set out in the agreement, and such agreement shall include provision for,

(*c*) the acquisition of any land that may be required for the purposes of the agreement, and the manner of approving and the method of apportioning the cost thereof;

(*d*) the manner of approving and the method of apportioning the cost of the construction, maintenance and operation of the facilities;

(*e*) the manner in which each party to the agreement shall pay its portion of the costs referred to in clauses *c* and *d* and the times when such costs shall be paid;

(*f*) the regulation, control and use of the facilities including the charging of fees for admission thereto; and

(*g*) the duration of the agreement and the manner in which and the terms upon which it may be terminated.

Approval of Minister

(3) Where, pursuant to an agreement made under this section, a permanent improvement is required, it shall not be proceeded with until such plans and specifications therefor as are required by the Minister have been approved by the Minister.

Previous agreement

(4) This section does not affect an agreement entered into before the 23rd day of June, 1972,

R.S.O. 1970, c. 295

(*a*) under subsection 2 of section 143 of *The Municipality of Metropolitan Toronto Act*; or

(*b*) between a board and the council of a municipality, including a regional municipality or a county, or a a local board thereof, for fulfilling, executing or completing, at their joint expense or at the expense of either of the parties to the agreement, any undertaking for the joint benefit of the parties to the agreement, including the joint use of educational and municipal facilities,

but after the 23rd day of June, 1972, an amendment to an agreement referred to in clause *a* or *b* or an agreement to which the said subsection 2 of section 143 applies may be made only in accordance with this section. 1972, c. 77, s. 20.

Agreement between public school boards

158.—(1) A public school board may enter into an agreement with another public school board under which one public school board shall furnish education for pupils of the other upon payment by such other public school board on behalf of such pupils of fees calculated in accordance with the regulations. R.S.O. 1970, c. 385, s. 5 (12), *amended*.

Agreement between separate school boards

(2) A separate school board may enter into an agreement with another separate school board under which one separate school board shall furnish education for pupils of the other upon payment by such other separate school board on behalf of such pupils of fees calculated in accordance with the regulations. R.S.O. 1970, c. 430, s. 25 (12), *amended*.

Admission of pupils to Indian schools

R.S.C. 1970, c. I-6

(3) The board of an elementary school may provide for the admission of one or more of its pupils to a school for Indian children established, operated and maintained under the *Indian Act* (Canada), subject to the approval of the authority having control of such school, and the accommodation provided under such arrangement shall be in lieu of the accommodation that the board is required by this Act to provide for such pupils.

Levy for fees, transportation, etc.

(4) The board of an elementary school may levy and collect upon the property rateable for the purposes of the board such sum as may be necessary to pay the fees of its pupils who attend schools for Indian children pursuant to subsection 3 and to pay for the transportation of such pupils to and from such schools as well as such other sums as the board considers expedient or as may be required by this Act.

Closing of school by board

(5) Where a board has arranged under this section for the admission of all its pupils to a school or schools that the board does not operate, the board may close its schools for the period during which such arrangement or arrangements are in effect. R.S.O. 1970, c. 385, s. 53, *amended*.

Agreements for education of public and separate school pupils

159. A public school board and a separate school board may enter into an agreement in respect of the provision of education in a public or separate school under the jurisdiction of either board for pupils of the other board in a course or courses that are not available in a school under the jurisdiction of the board requiring the provision of education or that are considered by such board to be not readily accessible to the pupils in respect of whom the agreement is made where,

(*a*) the appropriate supervisory officer of the board providing education certifies that accommodation is available in such school for such pupils; and

(*b*) the board requiring the provision of education pays for each such pupil a fee calculated in accordance with the regulations. R.S.O. 1970, c. 385, s. 5 (13); R.S.O. 1970, c. 430, s. 25 (13), *amended*.

Secondary school agreements

160.—(1) The board of a secondary school district that is not a school division may, in lieu of establishing and maintaining a school, enter into an agreement with another secondary

school board to provide for the instruction of its pupils in the schools under the jurisdiction of that board and for the payment in respect of such pupils of fees calculated in accordance with the regulations.

Agreements for education at outside schools

(2) A secondary school board that has established one or more secondary schools may enter into an agreement with another secondary school board to provide for the instruction, in the school or schools maintained by the latter board, of resident pupils of the first-mentioned board and for the payment in respect of such pupils of fees calculated in accordance with the regulations. R.S.O. 1970, c. 425, s. 60, *amended*.

Agreements re pupils in federal establishments

161. A board may enter into an agreement with the Crown in right of Canada for such periods and under such conditions as are specified in the agreement whereby the board may provide for the education of pupils who reside on land held by the Crown in right of Canada in a school or schools operated by the board on land owned by the board or by the Crown in right of Canada. R.S.O. 1970, c. 424, s. 38.

Agreements re accommodation for Indian pupils

162.—(1) A board may enter into an agreement with the Crown in right of Canada for a period specified in the agreement to provide accommodation and tuition for the maximum number of Indian pupils agreed upon, and the fees therefor shall be calculated in accordance with the regulations.

Idem

(2) A board may enter into an agreement with the Crown in right of Canada for a period specified in the agreement to provide for a payment from the Crown in right of Canada to provide additional classroom accommodation and to provide tuition for a maximum of thirty-five Indian pupils for each additional classroom so provided, and the fees therefor shall be calculated in accordance with the regulations, but exclusive of expenditures for the erection of school buildings for instructional purposes and additions thereto. R.S.O. 1970, c. 424, s. 37 (1, 2); 1971, c. 90, s. 6 (1, 2), *amended*.

Cost of special services

(3) A board shall not enter into an agreement under subsection 1 or 2 that requires the board to provide special services for Indian pupils that it does not provide for its resident pupils unless, in addition to the fees referred to in subsection 1 or 2, the cost of such services is payable by the Crown in right of Canada. 1973, c. 92, s. 11, *amended*.

Appointment of representative of Indian pupils

(4) Where a board has entered into one or more agreements under this section, the council of the Indian band, or the councils of the Indian bands, to which the Indian pupils, or a majority of the Indian pupils, who are, pursuant to the agreement or agreements, enrolled in the schools operated by the board, belong, may, subject to subsection 5, name one person to

represent on the board the interests of the Indian pupils and, where a person is so named, the board shall, subject to subsection 6, appoint the person a member of the board, and the member so appointed shall be deemed to be an elected member of the board, except that,

(*a*) where the agreement or agreements under this section are in respect of secondary school pupils only, the member so appointed is a trustee for secondary school purposes only and shall not vote on a motion or otherwise take part in any proceedings that affect public schools exclusively; and

(*b*) where the agreement or agreements under this section are in respect of elementary school pupils only, the member so appointed is a trustee for elementary school purposes only and shall not vote on a motion or otherwise take part in any proceedings that affect secondary schools exclusively.

Additional representative

(5) Where the number of Indian pupils enrolled in the schools under the jurisdication of a divisional board or a county or district combined separate school board pursuant to one or more agreements made under this section exceeds 25 per cent of the average daily enrolment in the schools of the board, two persons may be named under subsection 4, and subsection 4 applies *mutatis mutandis* in respect of such persons.

Where appointment in discretion of board

(6) Where the number of Indian pupils enrolled in the schools under the jurisdiction of the board pursuant to one or more such agreements is fewer than the lesser of 10 per cent of the average daily enrolment in the schools of the board and 100, the appointment under subsection 4 may be made at the discretion of the board.

Enrolment

(7) Where the agreement is, or the agreements are, in respect of elementary school pupils only or secondary school pupils only, the enrolment referred to in subsections 5 and 6 shall be that of elementary school pupils only or secondary school pupils only, as the case may be.

Appointed members in addition to elected members

(8) A member of the board appointed under subsection 4, 5 or 6 is in addition to the number of members of the board otherwise provided for in this Act and the term of office of such member terminates on the same date as the term of office of the elected members. 1972, c. 77, s. 21.

Vacancy in office

(9) Where the office of a member of a board appointed under this section becomes vacant for any reason, it shall be filled in accordance with subsection 4, and the person so appointed shall hold office for the remainder of the term of his predecessor. *New*.

Transportation

163.—(1) A board may provide for, Transportation of pupils

(*a*) a resident pupil of the board who is enrolled in a school that the board operates or in a school operated by another board to which the board pays fees in respect of such pupil; and

(*b*) a pupil in respect of whom the Minister pays the cost of education under the regulations,

transportation to and from the school that the pupil attends and to and from an activity that is part of the program of such school. R.S.O. 1970, c. 424, s. 42 (1), *amended*.

(2) A board may provide for a person who is qualified to be a resident pupil of the board transportation to and from the Ontario School for the Blind, an Ontario School for the Deaf, a facility designated under *The Developmental Services Act, 1974*, and a psychiatric facility designated as such under *The Mental Health Act*. Idem 1974, c. 2 R.S.O. 1970, c. 269

(3) A secondary school board may assist in the payment of the cost of transportation for children who reside within the area of jurisdiction of the board, to and from a centre operated by a local association that is affiliated with the Ontario Association for the Mentally Retarded. *New*. Idem

(4) For the purposes of this section, a board may purchase a vehicle either from current revenue or from a debenture issued for that purpose. Purchase of bus

(5) Subject to subsection 6, for the purposes of this section, a board may make an agreement or agreements for one school year or less with a corporation, commission or person for the transportation of such pupils. Agreements

(6) Where a board provides transportation for more than thirty pupils, the board may, with the approval of the Ontario Municipal Board, make an agreement for a term not exceeding five years for the transportation of such pupils. Agreements not exceeding five years

(7) Where a pupil resides in a school section or separate school zone in a territorial district but not in a school division with his parent or guardian in a residence that is fifteen miles or more by road or rail from a secondary school that he is eligible to attend, an elementary school board may, in lieu of providing daily transportation to and from school under subsection 1, reimburse the parent or guardian at the end of each month for the cost of providing for such pupil, board, lodging, and transportation once a week from his residence to school and return, in an amount set by the board for each day of attendance as certified by the principal of the secondary school that the pupil attends. Boarding of secondary school pupils residing in territorial district

Idem

(8) Where a pupil resides in a territorial district but not in a school section, a separate school zone or a school division, with his parent or guardian in a residence that is fifteen miles or more by road or rail from a secondary school that he is eligible to attend, the board of the secondary school that he attends may reimburse the parent or guardian at the end of each month for the cost of providing for such pupil, board, lodging, and transportation once a week from his residence to school and return, in an amount set by the board for each day of attendance as certified by the principal of the secondary school that the pupil attends.

Idem

(9) Where a pupil resides with his parent or guardian in a school division in a residence that,

(*a*) in a territorial district is fifteen miles or more; or

(*b*) in a county is thirty miles or more,

by road or rail from a secondary school that he attends, or where a pupil resides with his parent or guardian on an island in a school division, the board of the school division of which he is a resident pupil may, in lieu of providing daily transportation to and from the secondary school that he attends, reimburse the parent or guardian at the end of each month for the cost of providing for such pupil, board, lodging, and transportation once a week from his residence to school and return, in an amount set by the board for each day of attendance as certified by the principal of the secondary school that the pupil attends.

Boarding and transportation of secondary school pupils in a territorial district taking "francais" subject

(10) Where a secondary school pupil resides in a territorial district in a school division with his parent or guardian in a residence that is fifteen miles or more by road or rail from a secondary school in which the subject of French, taught as a subject for students who normally speak the French language, is offered as one of the subjects of the courses of study, an elementary school board may reimburse the parent or guardian at the end of each month for the cost of providing for such pupil, when not so provided by the secondary school board, board, lodging, and transportation once a week from his residence to school and return, in an amount set by the board for each day of attendance as certified by the principal of the secondary school that the pupil attends, or may furnish transportation for such pupil in lieu thereof.

Boarding of elementary school pupils residing in territorial districts

(11) Where a pupil resides in a territorial district but not in a school section or a separate school zone, with his parent or guardian in a residence from which daily transportation to and from an elementary school that he may attend is impracticable due to distance or terrain, as certified by the appropriate supervisory officer of the elementary school nearest such residence,

the board of the elementary school that he attends may reimburse the parent or guardian at the end of each month for the cost of providing for such pupil, board, lodging, and transportation once a week from his residence to school and return, in an amount set by the board for each day of attendance as certified by the principal of the elementary school that the pupil attends.

Boarding of elementary school pupils where transportation impracticable

(12) Where a pupil resides in a school section or a separate school zone with his parent or guardian in a residence from which daily transportation to and from an elementary school that he may attend is impracticable due to distance or terrain, as certified by the supervisory officer who has jurisdiction in the school section or the separate school zone, the board of the elementary school of which he is a resident pupil may reimburse the parent or guardian at the end of each month for the cost of providing for such pupil, board, lodging, and transportation once a week from his residence to school and return, in an amount set by the board for each day of attendance as certified by the principal of the elementary school that the pupil attends.

Certification of attendance

(13) For the purpose of certifying attendance under subsections 7 to 12, the principal may add to the number of days of attendance of a pupil the number of days the pupil is excused from attendance under the regulations or is absent by reason of being ill or is absent for any other cause if the principal is of the opinion that the absence was unavoidable. R.S.O. 1970, c. 424, s. 42 (5-14), *amended*.

Allowances

Allowance for members

164.—(1) A board may pay to each member of the board for each month an allowance not exceeding an amount based on the enrolment on the 30th day of September in the preceding year in all the schools which, on the 1st day of January of the current year, are operated by the board, as follows:

Enrolment	Maximum Monthly Allowance
Fewer than 100	$ 20
100 or more but fewer than 500	50
500 or more but fewer than 2,000	100
2,000 or more but fewer than 5,000	150
5,000 or more but fewer than 15,000	200
15,000 or more but fewer than 30,000	300
30,000 or more but fewer than 50,000	350
50,000 or more but fewer than 75,000	400
75,000 or more but fewer than 100,000	500
100,000 or more	600

Chairman, additional allowance

(2) A board may pay to its chairman, in addition to any allowance that may be paid to him as a member, an additional allowance not exceeding one-half of the allowance that may be paid to him as a member.

Travel expenses to attend board meetings

(3) In respect of travel of a member of the board to and from his residence to attend a meeting of the board, or a committee thereof, that is held within the area of jurisdiction of the board, the board may,

(*a*) reimburse the member for his expenses necessarily incurred therefor or such lesser amount as may be determined by the board; or

(*b*) pay the member a mileage allowance at a rate determined by the board.

Expenses for authorized travel on board business

(4) A board may authorize a member, teacher or official of the board to travel on designated business of the board, and may reimburse the member, teacher or official for his actual expenses incurred on business of the board, or such lesser amount as may be determined by the board.

Deduction because of absence

(5) A board may provide for a deduction of a reasonable amount from the allowance of a member because of absence from regular or committee meetings of the board.

Advisory committee members

(6) Subsections 3, 4 and 5 apply *mutatis mutandis* to members of a committee established by the board who are not members of the board. R.S.O. 1970, c. 424, s. 40, *amended*.

Property

School lands granted before 1850 vested in board for school purposes

165.—(1) All lands that before the 24th day of July, 1850, were granted, devised or otherwise conveyed to any person or persons in trust for common school purposes and held by such person or persons and their heirs or other successors in the trust, and have been heretofore vested in a public school board or a board of education having jurisdiction in the municipality in which the lands are situate, continue to be vested in such board, and continue to be held by it and its successors upon the like trusts and subject to the same conditions and for the estates upon or subject to or for which the lands are respectively held. R.S.O. 1970, c. 385, s. 9 (1).

Property in trust vested in board

(2) All property heretofore granted or devised to, acquired by or vested in any person or corporation,

(*a*) for the secondary school purposes of a secondary school district or any part thereof; or

(*b*) for the separate school purposes in a separate school zone,

is vested in the board having jurisdiction in the secondary

school district or separate school zone, as the case may be. R.S.O. 1970, c. 430, s. 50 (1) (*i*), *part*; 1972, c. 75, s. 3, *amended*.

166.—(1) A board may take possession of all property acquired or given for school purposes and hold and apply it according to the terms on which it was acquired or given. R.S.O. 1970, c. 385, s. 51 (2) (*a*). Possession of property

(2) A separate school board has power to acquire and hold as a corporation, by any title whatsoever, land, movable property, money or income given to or acquired by the board at any time for school purposes and hold or apply the same according to the terms on which it was acquired or received. R.S.O. 1970, c. 430, s. 50 (1) (*i*), *part*. Idem

(3) A board of education may appropriate any property acquired by it or in its possession or control for any of the purposes of the board but, where public school property is appropriated for secondary school purposes, the value of the property so appropriated or the revenue derived therefrom shall be applied for public school purposes and, where secondary school property is appropriated for public school purposes, the value of the property so appropriated or the revenue derived therefrom shall be applied for secondary school purposes. R.S.O. 1970, c. 425, s. 23, *amended*. Appropriation of property

167.—(1) Lands originally granted or conveyed by the Crown for school purposes and held by a board may be leased, sold or otherwise disposed of with the approval of the Lieutenant Governor in Council and upon such conditions as to the investment or application of the proceeds or otherwise as may be prescribed in the order granting the approval. R.S.O. 1970, c. 385, s. 9 (2). Disposal of lands patented to boards for school purposes

(2) Where land, the use of which is restricted by deed in any manner to school purposes so as to appear that some other person may have an interest therein, has been vested in a board for at least fifty years, the board may apply to the Supreme Court to remove the restriction, and the Supreme Court may make such order on the application as it considers just including, where the land adjoins land being used as a farm, a requirement that the board shall, where the board intends to sell the land, first offer it at a reasonable price to the owner or owners of such adjoining land. R.S.O. 1970, c. 385, s. 10, *amended*. Application for removal of restrictions on use of school lands

(3) Subject to subsection 4, a board has power to sell, lease or otherwise dispose of any school site or part thereof or property of the board upon the adoption of a resolution that such site or part or property is not required for the purposes of the board, and the board shall apply the proceeds Lease or sale of site or property

thereof for the purposes of the board and shall advise the Minister of the sale, conveyance or transfer, or of the lease where the term thereof exceeds one year, of any of its schools. R.S.O. 1970, c. 385, s. 51 (2) (*b*); R.S.O. 1970, c. 425, s. 9 (2); R.S.O. 1970, c. 430, s. 50 (1) (*i*), *part, amended*.

Disposal of buildings
1953, c. 119

(4) Notwithstanding any general or special Act, including *The Metropolitan Separate School Board Act, 1953*, a board shall not sell, lease or otherwise dispose of a building or part thereof other than to another board or demolish a building, unless, in addition to any other approval that may be required, the board has obtained the approval of the Minister.

Exceptions

(5) Subsection 4 does not apply,

(*a*) to the use of a building or part thereof pursuant to an agreement under section 157; or

(*b*) where a building or part thereof is in use as a school, to the use of the building or part for any purpose that does not interfere with the proper conduct of the school. 1973, c. 92, s. 2, *amended*.

Board may purchase or expropriate within its jurisdiction

168.—(1) Subject to the provisions of Part IV as to the selection of a site by a rural separate school board, every board may acquire, by purchase or lease, or may expropriate, a school site that is within its area of jurisdiction.

Purchase or lease of site in adjoining jurisdiction

(2) A public school board, board of education or secondary school board may, with the approval of the Minister, acquire by purchase or lease a school site in an adjoining school section or secondary school district, as the case may be, for the purpose of operating a school thereon, but the board shall not expropriate any such site.

Separate school board may purchase or expropriate within its designated area

(3) A county or district combined separate school board may acquire by purchase or lease, or may expropriate, a school site that is within the area designated in respect of such board by regulation made under subsection 2 of section 103 but that is not within the county or district combined separate school zone, for the purpose of operating a school thereon. 1972, c. 77, s. 27, *part*.

School outside designated area

(4) A county or district combined separate school board may, with the approval of the Minister, acquire by purchase or lease a school site that is outside the area designated in respect of such board by regulation made under subsection 2 of section 103 and may operate thereon a separate school, but a county or district combined separate school board shall not expropriate any such site.

Zone not established

(5) Notwithstanding section 80, the operation of a separate school on a school site acquired under subsection 4 does not, thereby, establish a separate school zone with a centre at such site. 1972, c. 76, s. 28, *part*.

(6) Subject to section 169, a board may erect, add to or alter buildings for its purposes on land owned by the board where the plans and specifications, together with the details of the site thereof, are approved by the Minister. Buildings on land owned by board

(7) A board may erect a school building on land that is leased by the board where the term of the lease, the school site and the plans of the school building are approved by the Minister. 1973, c. 92, s. 16, *amended*. Buildings on leased land

(8) A board may, with the approval of the Minister, make an addition, alteration or improvement to a school building that is acquired by the board under a lease. 1972, c. 77, s. 27, *part, amended*. Additions or alterations

169. Where a board plans to provide, other than by way of a lease, accommodation for pupils on a school site that is not to be occupied or used exclusively by the board, the board shall obtain the prior approval of the Minister to enter into negotiations with a person, other than a board or a municipality, in respect of the provision of such accommodation, and an agreement for such purposes may be entered into with such person only after the proposed agreement, the plans of the school and of the building of which it may be a part and the site have been approved by the Minister. 1972, c. 77, s. 28. Agreement for multi-use building

Out-of-Classroom Programs

170.—(1) A board may acquire by purchase or by lease land in any municipality or territory without municipal organization in Ontario for the purpose of conducting a natural science program and other out-of-classroom programs as the board may direct, and for such purposes may, with the approval of the Minister, build and operate the necessary facilities. Acquisition of land for natural science programs

(2) Two or more boards may enter into an agreement for a specified period whereby one of the boards may acquire by purchase or by lease land in any municipality or territory without municipal organization in Ontario for the purpose of conducting a natural science program and other out-of-classroom programs and, for such purposes, such board may, with the approval of the Minister, build and operate the necessary facilities. Agreements between boards

(3) All land acquired by a board under subsection 1 or 2, so long as it is held by the board and is not situated, Taxation

(*a*) within the jurisdiction of the board or within the jurisdiction of another board with which the board has entered into an agreement under subsection 2; or

(*b*) in the case of a separate school board, within the area designated in respect of such board by regulation made under subsection 2 of section 103,

is subject to taxation for municipal and school purposes in the municipality in which it is situate.

Agreements with conservation authorities, etc.

(4) A board may enter into an agreement with a conservation or other appropriate authority under which the board may, with the approval of the Minister, construct and maintain on lands owned by the authority the necessary facilities for the purpose of conducting a natural science program or other out-of-classroom program.

Idem

(5) A board that conducts a natural science, conservation or other out-of-classroom program may enter into an agreement with a conservation or other appropriate authority for the use of the facilities and personnel of such authority for the purpose of conducting such a program as directed by the board. 1972, c. 77, s. 29.

Idem

(6) One or more boards may enter into an agreement with a conservation or other appropriate authority to provide for the construction, furnishing and equipping by the authority on lands owned by the authority of facilities for the purposes of conducting a natural science, conservation or other out-of-classroom program as directed by the board or one or more of the boards and, where under the agreement a board is required to pay all or part of the cost of the facilities, the construction of the facilities shall be first approved by the Minister, and the amount paid therefor by the board shall be deemed to be an expenditure made by the board for a permanent improvement. *New*.

Board for courses in conservation

(7) A board may provide or pay for board and lodging for a pupil for a period not exceeding two weeks in any year while he participates, with the consent of his parent or guardian and with the permission of the board, in a natural science, conservation or other out-of-classroom program. R.S.O. 1970, c. 424, s. 34, par. 34.

Officers

Duties of secretary

171.—(1) The secretary of a board is responsible for,

(*a*) keeping a full and correct record of the proceedings of every meeting of the board in the minute book provided for that purpose by the board and ensuring that the minutes when confirmed are signed by the chairman or presiding member;

(*b*) transmitting to the Ministry copies of reports requested by the Ministry;

(*c*) giving notice of all meetings of the board to each of the members by notifying him personally or in writing or by sending a written notice to his residence;

(*d*) calling a special meeting of the board on the request in writing of the majority of the members of the board; and

(*e*) performing such other duties as may be required of him by the regulations, by this Act or by the board. R.S.O. 1970, c. 424, s. 51; R.S.O. 1970, c. 430, s. 32, *amended*.

Security by officers

(2) Every treasurer and collector of a board and, if required by the board, any other officer of a board shall give security for the faithful performance of his duties, and the security shall be deposited for safekeeping as directed by the board.

Form of security

R.S.O. 1970, c. 196

(3) The security to be given shall be by the bond, policy or guarantee contract of a guarantee company as defined in *The Guarantee Companies Securities Act*. R.S.O. 1970, c. 424, s. 52.

Failure to take security

(4) If a board refuses or neglects to take proper security from the treasurer or other person to whom it entrusts school moneys and any school money is forfeited or lost in consequence of the refusal or neglect, every member of the board is personally liable for such moneys, which may be recovered by the board or by any ratepayer assessed for the support of the school or schools under the jurisdiction of the board suing on behalf of himself and all other such ratepayers in a court of competent jurisdiction, but no member is liable if he proves that he made reasonable efforts to procure the taking of the security. R.S.O. 1970, c. 424, s. 59.

Duties of treasurer

(5) Every treasurer of a board shall,

(*a*) receive and account for all school moneys;

(*b*) open an account or accounts in the name of the board in such of the chartered banks of Canada or in such other place of deposit as may be approved by the board;

(*c*) deposit all moneys received by him on account of the board, and no other moneys, to the credit of such account or accounts;

(*d*) disburse all moneys as directed by the board; and

(*e*) produce, when required by the board or by auditors or other competent authority, all papers and moneys in his possession, power or control belonging to the board. R.S.O. 1970, c. 424, s. 53.

Business administrator

(6) Where a board determines that one or more persons should be employed full time to carry out the duties of a secretary or treasurer or both, it may appoint one or more business administrators and one or more assistant business administrators and may assign to a person so appointed any of the duties of the secretary, treasurer and supervisor of maintenance of school buildings. R.S.O. 1970, c. 424, s. 41.

Responsibility of officers

172. Every officer appointed by a board is responsible to the board through its chief executive officer for the performance of the duties assigned to him by the board. *New*.

School Board Advisory Committees

Interpretation

173. In sections 174 to 178, "committee" means a school board advisory committee established under section 174. R.S.O. 1970, c. 424, s. 83 (*b*).

Committee establishment

174. A board of education, a county or district combined separate school board or the Metropolitan Separate School Board may establish a school board advisory committee. R.S.O. 1970, c. 424, s. 84.

Composition

175.—(1) The committee shall be composed of,

(*a*) three members of the board appointed by the board;

(*b*) the chief education officer of the board or his nominee;

(*c*) six teachers employed by the board, appointed by the teachers in the employ of the board;

(*d*) four persons appointed by the board who are neither teachers nor members of a board, but who are resident within the jurisdiction of the board; and

(*e*) the persons appointed under subsections 2 and 3. R.S.O. 1970, c. 424, s. 85 (1).

Separate school board

(2) In the case of a separate school board,

(*a*) where the Diocesan Council or Councils of the Federation of Catholic Parent-Teacher Associations

of Ontario organized in the area of jurisdiction of the board so recommend, the board shall appoint to the committee one person selected by the Council or Councils;

(*b*) where the Federation des Associations de Parents et Instituteurs de langue francaise de l'Ontario organized in the area of jurisdiction of the board so recommends, the board shall appoint one person selected by the regional section and, where there is no regional section, by the local section of such Federation; and

(*c*) where no recommendation and appointment is made under clause *a*, a recommendation and appointment of two persons may be made under clause *b* and, where no recommendation and appointment is made under clause *b*, a recommendation and appointment of two persons may be made under clause *a*. 1972, c. 77, s. 34 (1).

Board of education

(3) In the case of a board of education,

(*a*) where the Diocesan Council or Councils of the Federation of Catholic Parent-Teacher Associations of Ontario organized in the area of jurisdiction of the board so recommends, the board shall appoint to the committee one person selected by the Council or Councils;

(*b*) where the Home and School Council organized in the area of jurisdiction of the board so recommends, the board shall appoint to the committee one person selected by the Council;

(*c*) where the Federation des Associations de Parents et Instituteurs de langue francaise de l'Ontario organized in the area of jurisdiction of the board so recommends, the board shall appoint one person selected by the regional section and, where there is no regional section, by the local section of such Federation; and

(*d*) where no appointment is made under any two of clause *a*, *b* or *c*, two members may be appointed under the remaining clause. R.S.O. 1970, c. 424, s. 85 (3); 1972, c. 77, s. 34 (2).

Notice of teacher appointees

(4) The teachers shall submit to the board, not later than the 31st day of January in each year, the names of the appointees under clause *c* of subsection 1.

Appointment and term of office

(5) Members of the committee shall be appointed on or before the 31st day of January in each year and shall hold office for one year.

Reappointment

(6) Except for the chief education officer, a member of the committee shall not hold office for more than three years in succession.

Vacancies

(7) Every vacancy on a committee occasioned by the death or resignation of a member, or by any other cause, shall be filled by a person qualified under subsection 1 and appointed by the body or person that appointed the member whose office has become vacant, and every person so appointed shall hold office for the unexpired portion of the term of such member. R.S.O. 1970, c. 424, s. 85 (4-7).

First meeting

176.—(1) The chairman of the board shall call the first meeting of the committee not later than the 28th day of February in each year, and shall preside at such meeting until the chairman of the committee is elected.

Chairman

(2) The chairman of the committee shall be elected by the committee at its first meeting in each year.

Quorum

(3) Eight members of the committee constitute a quorum and a vote of the majority of the members present is necessary to bind the committee.

Sub-committees

(4) The committee may establish such sub-committees as it considers necessary. R.S.O. 1970, c. 424, s. 86.

Recording secretary

177.—(1) The board shall provide a recording secretary for the committee.

Budget

(2) The committee shall, as required by the board, submit to the board for approval a budget of its estimated expenditures for the calendar year.

Expenditures

(3) The board shall pay such expenditures of the committee as are approved by the board. R.S.O. 1970, c. 424, s. 87.

Powers of committee

178.—(1) The committee may make reports and recommendations to the board in respect of any educational matter pertaining to the schools under the jurisdiction of the board.

Limitation

(2) Notwithstanding subsection 1, the committee shall not concern itself with salaries of employees of the board or with matters pertaining to personnel problems and policies relating to personnel.

(3) The board shall consider any report or recommendation submitted to it by the committee and shall not refuse its approval without having given the committee, or its representatives, an opportunity to be heard by the board. R.S.O. 1970, c. 424, s. 88. Consideration of reports

Access to Meetings and Records

179.—(1) The meetings of a school board, except meetings of a committee of the board including a committee of the whole board, shall be open to the public and no person shall be excluded therefrom except for improper conduct. Open meetings of school boards

(2) The presiding officer may expel or exclude from any meeting any person who has been guilty of improper conduct at the meeting. R.S.O. 1970, c. 424, s. 47. Exclusion of persons

(3) Any person may, at all reasonable hours, at the head office of the board inspect the minute book, the audited annual financial report and the current accounts of a board, and, upon the written request of any person and upon the payment to the board at the rate of 25 cents for every 100 words or at such lower rate as the board may fix, the secretary shall furnish copies of them or extracts therefrom certified under his hand. R.S.O. 1970, c. 424, s. 54; 1972, c. 77, s. 25. Inspection of books and accounts

Board Meetings

180.—(1) A board shall be deemed to be constituted when a majority of the members to be elected or appointed has been elected or appointed. When board deemed constituted

(2) Where a board is elected or appointed, First meeting

(*a*) on or before the 31st day of December in any year, to be established in the following year, it shall hold its first meeting at 8.00 p.m. on the second Wednesday in January of the following year; and

(*b*) on or after the 1st day of January in any year, to be established in that year, it shall hold its first meeting at 8.00 p.m. on the second Wednesday following the election or appointment.

Supervisory officer may provide for calling first meeting

(3) Notwithstanding subsection 2, on the petition of a majority of the members of a newly elected or appointed board, the appropriate supervisory officer may provide for calling the first meeting of the board at some other time and date.

Presiding officer

(4) At the first meeting in each year, the chief executive officer shall preside until the election of the chairman or, if there is no chief executive officer or in his absence, the members present shall designate who shall preside at the election of the chairman and if a member of the board is so designated, he may vote at the election of the chairman.

Election of chairman

(5) At the first meeting in each year and at the first meeting after a vacancy occurs in the office of chairman, the members shall elect one of themselves to be chairman, and the chairman shall preside at all meetings.

Subsequent meetings

(6) Subsequent meetings of the board shall be held at such time and place as the board considers expedient.

Vice-chairman

(7) The members of the board may also elect one of themselves to be vice-chairman and he shall preside in the absence of the chairman.

Where equality of votes

(8) In the case of an equality of votes at the election of a chairman or vice-chairman, the candidates shall draw lots to fill the position of chairman or vice-chairman, as the case may be.

Temporary chairman

(9) If at any meeting there is no chairman or vice-chairman present, the members present may elect one of themselves to be chairman for that meeting.

Temporary secretary

(10) In the absence of the secretary from any meeting, the chairman or other member presiding may appoint any member or other person to act as secretary for that meeting.

Quorum

(11) The presence of a majority of all the members constituting a board is necessary to form a quorum, except that when a board of education is dealing with matters that affect public schools exclusively, the presence of a majority of the members elected to the board of education by the public school electors is necessary to form a quorum.

(12) Subject to subsection 7 of section 53, the presiding officer, except where he is the chief executive officer of the board and is not a member, may vote with the other members of the board upon all motions, and any motion on which there is an equality of votes is lost. R.S.O. 1970, c. 424, s. 48 (1-12), *amended*. Chairman, voting; equality of votes

(13) Special meetings of the board may be called by the chairman and in such other manner as the board may determine. R.S.O. 1970, c. 424, s. 48 (13); R.S.O. 1970, c. 430, s. 49, *amended*. Special meetings

181.—(1) Except as provided in subsection 2, every person elected or appointed to a board, on or before the day fixed for the first meeting of the new board, or on or before the day of the first meeting that he attends, shall make and subscribe the following declaration before the secretary of the board or before any person authorized to administer an oath and in default he shall be deemed to have resigned: Declaration

DECLARATION

I, ... *A.B.*, do solemnly declare that:

1. I am not disqualified under any Act from being a member of (*name of board*).

2. I will truly, faithfully, impartially and to the best of my ability execute the office of trustee, and that I have not received and will not receive any payment or reward or promise thereof for the exercise of any partiality or malversation or other undue execution of the said office.

Declared before me at .....in the County or District of .....this .....day of ....., 19.. } *A.B.*

(2) Where a person is elected or appointed to fill a vacancy on a board, he shall make such declaration on or before the day fixed for holding the first meeting of the board after his election or appointment or on or before the day of the first meeting that he attends and in default he shall be deemed to have resigned. Idem

Oath of allegiance

(3) Every person elected or appointed to a board, before entering on his duties as a trustee, shall take and subscribe before the secretary of the board or before any person authorized to administer an oath the oath of allegiance in the following form:

I, *A.B.*....., do swear that I will be faithful and bear true allegiance to Her Majesty, Queen Elizabeth II (*or the reigning sovereign for the time being*).

Sworn before me at .....in the County or District of .....this .....day of ....., 19.. } *A.B.*

Filing of declaration and oath

(4) The declaration and oath of allegiance shall be filed with the secretary of the board within eight days after the making or taking thereof, as the case may be. R.S.O. 1970, c. 424, s. 49.

Arbitrators

Arbitrators to send copy of award to board, etc.

182.—(1) Arbitrators acting under this Act shall send a copy of their award forthwith after the making thereof to the chief executive officer of the board and to the clerk of each municipality affected. R.S.O. 1970, c. 424, s. 102 (1); 1972, c. 77, s. 35.

Liability of parties for costs

(2) Such arbitrators shall determine the costs of the arbitration and shall direct to whom and by whom and in what manner such costs or any part thereof, and the fees under subsection 4, shall be paid, and such determination and direction is final.

Expenses

(3) An arbitrator is entitled to an allowance of 15 cents for each mile necessarily travelled by him to and from his residence to attend meetings of arbitrators together with his actual expenses for room and meals, incurred while attending such meetings, and such costs shall be included in the costs of the arbitration.

Fees

(4) Each arbitrator, shall be paid a fee,

(*a*) in the case of the Ontario Municipal Board, as determined by the Board;

(*b*) in the case of an arbitrator other than a supervisory officer, judge or member of the Ontario Municipal Board, at the rate of $20 for each sitting of a half-day or fraction thereof.

(5) This section does not apply to a Board of Reference or the members thereof. R.S.O. 1970, c. 424, s. 102 (2-5), *amended*. Application

(6) This section, except subsection 4, applies to treasurers of municipalities who meet to arbitrate the apportionment of costs within a school division. *New*. Application to treasurers

Offences and Penalties

183. Every person who wilfully makes a false statement in a declaration required to be made under this Act is guilty of an offence and on summary conviction is liable to a fine of not more than $100. R.S.O. 1970, c. 424, s. 89, *amended*. False declaration

184. Every person who wilfully interrupts or disquiets the proceedings of a school or class or of a meeting of a board or a committee of a board, including a committee of the whole board, is guilty of an offence and on summary conviction is liable to a fine of not more than $100. R.S.O. 1970, c. 424, s. 90, *amended*. Disturbances

185.—(1) Every member of a board who sits or votes at any meeting of the board after becoming disqualified from sitting is guilty of an offence and on summary conviction is liable to a fine of not more than $100 for every meeting at which he so sits or votes. R.S.O. 1970, c. 424, s. 91 (3), *amended*. Acting while disqualified

(2) Every member of a board who knowingly signs a false report and every teacher who keeps a false school register or makes a false return is guilty of an offence and on summary conviction is liable to a fine of not more than $100. R.S.O. 1970, c. 424, s. 94, *amended*. False reports and registers

186. Every member of a board and every officer thereof who, Information to auditors

(*a*) withholds from the auditor access, at all reasonable hours, to the books, records, documents and vouchers of the board; or

(*b*) refuses or neglects to provide such information and explanations as the auditor may require,

is guilty of an offence and on summary conviction is liable to a fine of not more than $100, but no person is liable if he proves that he has made reasonable efforts to procure the furnishing of the papers or information. R.S.O. 1970, c. 424, s. 93, *amended*.

Delivery up of books and money

187.—(1) A person who holds or has held the office of treasurer, secretary or secretary-treasurer, and a member or other person who has in his possession any book, paper, chattel or money that came into his possession as such treasurer, secretary, secretary-treasurer, member or otherwise shall not wrongfully withhold, or neglect or refuse to deliver up, or account for and pay over the same to the person and in the manner directed by the board or by other competent authority.

Summons for appearance

(2) Upon application to the judge by the board, supported by affidavit, showing such wrongful withholding or refusal, the judge may summon the treasurer, secretary, secretary-treasurer, member or person to appear before him at a time and place appointed by him.

Service of summons

(3) A bailiff of a small claims court, upon being required so to do by the judge, shall serve the summons or a true copy thereof on the person complained against personally or by leaving it with a person apparently not under the age of sixteen years.

Order to account

(4) At the time and place so appointed, the judge, if satisfied that service has been made, shall, in a summary manner, and whether the person complained against does or does not appear, hear the complaint, and if he is of the opinion that it is well founded may order the person complained against to deliver up, account for and pay over such book, paper, chattel or money by a day to be named by the judge in the order, together with such reasonable costs incurred in making the application as the judge may allow. R.S.O. 1970, c. 424, s. 96 (1-4).

Other remedy not affected

(5) Such proceedings do not impair or affect any other remedy that the board or other competent authority may have against the person complained against or against any other person. R.S.O. 1970, c. 424, s. 96 (8).

Compelling delivery of books, money, etc., on dissolution of school corporation

188.—(1) Section 187 applies to the case of any person who has in his possession any books, paper, chattel or money that came into his possession as secretary or treasurer, or member, or otherwise, of a board that has been dissolved, and every such person shall deliver up, account for and pay over every such book, paper, chattel and all such money as provided in this Act and failing any such provision, as directed by the Minister, and in default thereof, proceedings may be taken against the person by two ratepayers in the same manner as in the case provided for by section 187 and that section *mutatis mutandis* applies.

(2) Subsection 1 applies to every person who has received from such secretary, treasurer, member or other person any book, paper, chattel or money, which by subsection 1 it is declared to be the duty of such secretary, treasurer, member or other person to deliver up, and the like proceedings may be taken against such first-mentioned person. R.S.O. 1970, c. 424, s. 97, *amended*. Application of subs. 1

189.—(1) No teacher, supervisory officer or other employee of a board or of the Ministry shall, for compensation of any kind, promote, offer for sale or sell, directly or indirectly, any book or other teaching or learning materials, equipment, furniture, stationery or other article to any board, provincial school or teachers' college, or to any pupil enrolled therein. Promotion or sale of books, etc., by employees of board or Ministry to board, pupil, etc., prohibited

(2) Subsection 1 does not apply to a teacher, supervisory officer or any other employee in respect of a book or other teaching or learning materials of which he is an author where the only compensation that he receives in respect thereof is a fee or royalty thereon. Exception for authors

(3) No person or organization or agent thereof shall employ a teacher, supervisory officer or other employee of a board or of the Ministry to promote, offer for sale or sell, directly or indirectly, any book or other teaching or learning materials, equipment, furniture, stationery or other article to any board, provincial school or teachers' college, or to any pupil enrolled therein, or shall, directly or indirectly, give or pay compensation to any such teacher, supervisory officer or employee for such purpose. Employment of employee of board or Ministry to promote sale of books, etc., to board, pupil, etc., prohibited

(4) Every person who contravenes any provision of subsection 1 or 3 is guilty of an offence and on summary conviction is liable to a fine of not more than $500. R.S.O. 1970, c. 424, s. 98, *amended*. Penalty

Validity of Elections

190.—(1) Any person entitled to vote at the election of members of a board may commence an action by writ in the county or district court in the county or district in which the head office of the board is situate for a declaration that the office of a member of such board has become vacant under section 50, 112, 181, 192, 193 or 202. Action for declaration that seat vacant

(2) No action shall be commenced under this section more than ninety days after the facts alleged to cause the vacancy in the board came to the knowledge of the person bringing such action. Time for bringing action

Power of court

(3) Where in an action under this section the court finds that the office of a member of the board has become vacant, the court may order that the member be removed from office and declare that the office is vacant.

Application of 1972, c. 95

(4) The provisions of sections 105 to 108 and 112 of *The Municipal Elections Act, 1972* apply *mutatis mutandis* to an action brought under this section.

Joining of claims

(5) A claim in an action under this section may be joined with a claim in an action under section 104 of *The Municipal Elections Act, 1972*, and such claim may be heard and disposed of in the same action. 1973, c. 92, s. 14.

Validity of elections and corrupt practices

(6) The provisions of *The Municipal Elections Act, 1972* in respect of the validity of elections and corrupt practices apply to an election of trustees that is not conducted under *The Municipal Elections Act, 1972*. 1972, c. 137, s. 2; 1973, c. 37, s. 3, *amended*.

PART VII

BOARD MEMBERS—QUALIFICATIONS, RESIGNATIONS AND VACANCIES

Employee disqualified

191. An employee of a board is not eligible to be elected a member of the board by which he is employed or entitled to sit or vote thereon. 1972, c. 77, s. 26.

Qualifications of members

192.—(1) A person is qualified to be elected as a member of a board if he is,

(*a*) a Canadian citizen;

(*b*) of the full age of eighteen years;

(*c*) a resident within the area of jurisdiction of the board; and

(*d*) in the case of,

(i) a public school board, a public school elector,

(ii) a Roman Catholic separate school board, a separate school supporter or a separate school elector,

(iii) a member of a board of education to be elected by public school electors, a public school elector, and

(iv) a member of a board of education to be elected by separate school electors, a separate school elector. R.S.O. 1970, c. 385, s. 13 (1); R.S.O. 1970, c. 425, ss. 5 (1), 39 (1); R.S.O. 1970, c. 430, s. 19; 1971, c. 98, s. 4, Sched., pars. 27, 29, 31; 1972, c. 74, s. 2 (1); 1972, c. 75, s. 2 (1).

Members eligible for re-election

(2) A member of a board is eligible for re-election if otherwise qualified. R.S.O. 1970, c. 425, s. 39 (2).

Disqualification

(3) A person is not qualified to be elected or to act as a member of a board,

(*a*) who is,

(i) a member of any other board, or

(ii) a member of the council or an elected member of a local board as defined in *The Municipal Affairs Act*, of a municipality, including a metropolitan or regional municipality and The District Municipality of Muskoka, all or part of which is included in the area of jurisdiction of the board,

R.S.O. 1970, c. 118

and whose term of office has at least two months to run after the last day for filing nominations for a new election unless before the closing of nominations he has filed his resignation with the secretary of the other board or with the clerk of the municipality, as the case may be;

(*b*) who is the clerk or treasurer of a county or municipality, including a metropolitan or regional municipality and The District Municipality of Muskoka, all or part of which is included in the area of jurisdiction of the board;

(*c*) who is a member of the Assembly or of the Senate or House of Commons of Canada; or

(*d*) who is otherwise ineligible or disqualified under this or any other Act. R.S.O. 1970, c. 385, s. 13 (2); R.S.O. 1970, c. 425, ss. 5 (2), 39 (3); 1972, c. 74, s. 2 (2, 3); 1972, c. 75, ss. 2 (2, 3), 12, *amended*.

Qualification to act as member

(4) A person is qualified to act as a member of a board during the term for which he was elected so long as he continues to hold the qualifications required for election as a member of the board and does not become disqualified under subsection 3. R.S.O. 1970, c. 385, s. 13 (3); R.S.O. 1970, c. 425, ss. 5 (3), 39 (4).

Person not to be candidate for more than one seat

(5) No person shall qualify himself as a candidate for more than one seat on a board, and any person who so qualifies himself and is elected to hold one or more seats on the board is not entitled to sit as a member of the board by reason of the election, and his seat or seats are thereby vacated. R.S.O. 1970, c. 425, s. 39 (5).

Exception

(6) Notwithstanding subsection 4, a member of a Roman Catholic separate school board who was elected or appointed prior to the coming into force of this Act shall not be disqualified during the term of office for which he was elected or appointed by reason of not holding the qualifications required under clause *c* or *d* of subsection 1. *New*.

Members to remain in office

193.—(1) The members of a board shall remain in office until their successors are elected and the new board is organized. R.S.O. 1970, c. 385, s. 19 (2), *amended*.

Board not to cease for want of members

(2) A board does not cease to exist by reason only of the lack of members. R.S.O. 1970, c. 385, s. 14.

Resignation of members

(3) A member of a board, with the consent of a majority of the members present at a meeting, entered upon the minutes of it, may resign as a member, but he shall not vote on a motion as to his own resignation and may not resign as a member if his resignation will reduce the number of members of the board to less than a quorum.

Resignation to become candidate for some other office

(4) Notwithstanding subsection 3, where it is necessary for a member of a board to resign to become a candidate for some other office, he may resign by filing his resignation, including a statement that he is resigning for the purpose of becoming a candidate for some other office, with the secretary of the board and the resignation shall become effective on the 31st day of December after it is so filed or the day preceding the day upon which the term of such office commences, whichever is the earlier. R.S.O. 1970, c. 424, s. 50, *amended*.

194.—(1) Subject to section 198, where, in respect of a board, the office of a member elected by public school electors, except a board composed of three members, becomes vacant from any cause before the expiration of the term for which he was elected and,

Vacancies on public and secondary school boards

(*a*) the remaining members elected by public school electors constitute a majority of the members of the board elected by public school electors, a majority of such remaining members shall at the first regular meeting after the vacancy occurs, appoint a qualified person to fill the vacancy; or

(*b*) there are no remaining members elected by public school electors or the remaining members elected by public school electors do not constitute a majority of the members elected by public school electors, a new election shall be held to fill the vacancy or vacancies,

and every member so appointed or elected shall hold office for the remainder of the term of his predecessor. R.S.O. 1970, c. 385, s. 22 (1); R.S.O. 1970, c. 425, s. 42 (1); 1972, c. 74, s. 8, *amended*.

(2) Subject to section 198, where, in respect of a board of education, the office of a member elected by separate school electors becomes vacant from any cause before the expiration of the term for which he was elected, and,

Vacancy in office of member elected by separate school electors

(*a*) the remaining members elected by separate school electors constitute a majority of the members elected by separate school electors, a majority of such remaining members shall at the first regular meeting after the vacancy occurs, appoint a qualified person to fill the vacancy; or

(*b*) there are no remaining members elected by separate school electors or the remaining members elected by separate school electors are not a majority of the members elected by separate school electors, the vacancy shall be filled by appointment by the board of the separate school zone that had the highest average daily enrolment for the preceding year of pupils

below the third year of the Intermediate Division who resided in the school division, as certified by the appropriate supervisory officer,

and the person so appointed shall hold office for the remainder of the term of his predecessor. R.S.O. 1970, c. 425, s. 42 (2), *amended*.

All offices vacant

(3) Subject to section 198 and notwithstanding subsection 2, where the offices of all members of a board of education become vacant from any cause, a new election shall be held to fill all such vacancies, and the members so elected shall hold office for the remainder of the term of their predecessors. R.S.O. 1970, c. 425, s. 42 (3).

Where election held to fill a vacancy

1972, c. 95

(4) Notwithstanding subsections 1 to 3, where the elections of a board are held under *The Municipal Elections Act, 1972*, a board may require that an election be held to fill a vacancy on the board and, where an election is so held, the provisions of that Act that pertain to an election to fill a vacancy apply. 1972, c. 74, s. 8; 1972, c. 75, s. 14; 1972, c. 76, s. 15.

Vacancies on board of district school area

195.—(1) Where a vacancy occurs from any cause in the office of a member of a district school area board composed of only three members, the remaining members shall forthwith hold a new election to fill the vacancy in the manner provided for holding the election of the board, and the person elected shall hold office for the remainder of the term of his predecessor.

Where one trustee or no trustee

(2) If at any time there are no remaining members, or only one remaining member, of the board of a district school area, any two electors of the district school area, or the appropriate supervisory officer, by giving six days notice posted up in at least three public places in the district school area, may call a meeting of the electors who shall elect three or two members, as the case may be, in the manner provided in subsection 1. R.S.O. 1970, c. 385, s. 33 (8, 9), *amended*.

Vacancy on separate school board other than rural

196. Subject to section 198, where the office of a trustee of a separate school board, other than a rural separate school board, becomes vacant from any cause before the expiration of the term for which he was elected and,

(*a*) the remaining members constitute a majority of the membership of the board, a majority of the remaining members shall, at the first regular meeting after the vacancy occurs, appoint a qualified person to fill the vacancy; or

(*b*) there are no remaining members or the remaining members do not constitute a majority of the membership of the board, a new election shall be held to fill the vacancy or vacancies,

and every member so appointed or elected shall hold office for the remainder of the term of his predecessor. R.S.O. 1970, c. 430, ss. 52 (3, 4), 91 (5), *amended*.

Vacancy on rural separate school board

197.—(1) Where a vacancy occurs from any cause in the office of a trustee,

(*a*) of a rural separate school before the trustees become a body corporate; or

(*b*) of a rural separate school board,

the remaining trustees shall forthwith take steps to hold a new election to fill the vacancy, and the person thereupon elected shall hold his seat for the remainder of the term of his predecessor.

Proceedings at new election

(2) The new election shall be conducted in the same manner and is subject to the same provisions as for an election of the whole board. R.S.O. 1970, c. 430, s. 52 (1, 2), *amended*.

Vacancy on board

198. Where a vacancy occurs on a board,

(*a*) within one month before the next ensuing election, it shall not be filled; or

(*b*) after the election, but before the new board is organized, it shall be filled immediately after the new board is organized in the same manner as for a vacancy that occurs after the board is organized. R.S.O. 1970, c. 430, ss. 52 (5) (*a*, *b*), 91 (5); 1972, c. 74, s. 8, *part*, *amended*.

Election to fill vacancy

199. Where an election is required to fill a vacancy on a board, except a board composed of only three members, the nomination shall be held on the third Monday following the day on which the office becomes vacant and the polling shall be held on the second Monday following the day of nomination, and the nomination and polling shall be held in the same manner and at the same times as for the office that became vacant. R.S.O. 1970, c. 425, s. 42 (4), *amended*.

Appointment of trustees on failure of qualified person

200. Where the appropriate supervisory officer reports that no persons duly qualified are available or that the electors have failed to elect members of a district school area board,

the Minister may appoint as members of the board such persons as he may consider proper, and the persons so appointed have, during the term of such appointment, all the authority of a board as though they were eligible and duly elected according to this Act. R.S.O. 1970, c. 385, s. 22 (4), *amended*.

When tie vote for vacancy on board

201. When, at a regular meeting of a board or at a special meeting called to fill a vacancy or vacancies on a district school area board, two or more candidates for office receive an equal number of votes, the chairman of the meeting shall provide for the drawing of lots to determine which of the candidates is elected. R.S.O. 1970, c. 385, s. 33 (10), *amended*.

Seat vacated by conviction

202.—(1) If a member of a board is convicted of an indictable offence, or becomes mentally ill, or absents himself without being authorized by resolution entered in the minutes, from three consecutive regular meetings of the board, or ceases to hold the qualifications required to act as a member of the board or becomes disqualified under subsection 3 of section 192, he thereby vacates his seat, and the provisions of this Act with respect to the filling of vacancies apply.

Proviso

(2) Notwithstanding subsection 1, where a member of a board is convicted of an indictable offence, the vacancy shall not be filled until the time for taking any appeal that may be taken from the conviction has elapsed, or until the final determination of any appeal so taken, and in the event of the quashing of the conviction the seat shall be deemed not to have been vacated. R.S.O. 1970, c. 424, s. 57, *amended*.

PART VIII

FINANCE

Interpretation

203.—(1) In this section, "board" means a divisional board and a county or district combined separate school board. *New*.

Appointment and dismissal of auditor

(2) Every board shall appoint an auditor who shall be a person licensed by the Ministry of Treasury, Economics and Intergovernmental Affairs as a municipal auditor and who shall hold office during good behaviour and be removable for cause upon the vote of two-thirds of the members of the board.

Disqualification of auditor

(3) No person shall be appointed as an auditor of a board who is or during the preceding year was a member of the board or who has or during the preceding year had any

direct or indirect interest in any contract or any employment with the board other than for services within his professional capacity, and every auditor, upon appointment, shall make and subscribe a declaration to that effect.

Duties of auditor

(4) An auditor of a board shall perform such duties as are prescribed by the Minister and by the Minister of Treasury, Economics and Intergovernmental Affairs and also such duties as may be required by the board that do not conflict with the duties prescribed by the Minister and by the Minister of Treasury, Economics and Intergovernmental Affairs.

Rights of auditor

(5) An auditor of a board has the right of access at all reasonable hours to all books, records, documents, accounts and vouchers of the board and is entitled to require from the members and officers of the board such information and explanation as in his opinion may be necessary to enable him to carry out his duties.

Auditor may take evidence

(6) An auditor of a board may require any person to give evidence on oath touching on any such matters, and for such purpose has the powers of a commission under Part II of *The Public Inquiries Act, 1971*, which Part applies to such inquiry as if it were an inquiry under that Act.

1971, c. 49

Auditor may attend meetings

(7) An auditor of a board is entitled to attend any meeting of the board or of a committee thereof and to receive all notices relating to any such meeting that any member is entitled to receive and to be heard at any such meeting that he attends on any part of the business of the meeting that concerns him as auditor.

Publication of financial statements

(8) The treasurer of every board in every year shall, within one month after receiving the auditor's report on the financial statements of the board, cause to be published or to be mailed or delivered to each ratepayer a copy of the financial statements of the board for the preceding year in such form as the Minister may prescribe, together with a copy of the report of the auditor.

Idem

(9) Where in any year a tax notice is mailed to each ratepayer before the 30th day of June, the treasurer may, in lieu of publishing, mailing or delivering a copy or summary and the report under subsection 8 cause to be included with such notice the copy or summary and the report.

Filing of financial statements

(10) The treasurer of every board in every year shall prepare the financial statements of the board and, upon receiving the auditor's report thereon, shall forthwith submit two copies

of the financial statements together with a copy of the auditor's report to the Ministry. R.S.O. 1970, c. 425, s. 36; R.S.O. 1970, c. 430, ss. 88, 89, *amended*.

Debentures

204.—(1) Subject to the approval of the Ontario Municipal Board, the sums required by a divisional board for permanent improvements may be raised by the issue of debentures by the divisional board in the manner provided for the issue of municipal debentures in *The Municipal Act*, and for the purposes of this section the duties imposed and powers conferred under *The Municipal Act* regarding the issuing of debentures and the use of moneys received from the sale or hypothecation of debentures, upon the Corporation, the head of council and the treasurer respectively are imposed and conferred upon the divisional board, the chairman of the divisional board and the treasurer of the divisional board respectively. R.S.O. 1970, c. 425, s. 35 (1); 1971, c. 68, s. 5 (1).

R.S.O. 1970, c. 284

Temporary advances pending sale of debentures

(2) The power conferred on a divisional board to issue debentures includes, pending the sale of debentures, the power to agree with a chartered bank or a person for temporary advances from time to time to meet expenditures incurred up to the total of the amount of the debentures authorized by the Ontario Municipal Board and any further amount that has been authorized by the Ontario Municipal Board. 1971, c. 68, s. 5 (2).

Notification of debt charges

(3) The clerk-treasurer or treasurer of each county and municipality in which a divisional board has jurisdiction shall notify the treasurer of the divisional board before the 1st day of January in each year of the amount of the principal and interest due and payable in that year in respect of debentures issued for school purposes by such county or municipality and the dates on which payments are due.

Payment of debt charges for debentures not issued by the board

(4) The treasurer of the divisional board shall pay to every county and municipality on or before the due date of payment the amount of the principal and interest as notified under subsection 3. R.S.O. 1970, c. 425, s. 35 (2, 3).

Withholding from debenture levy

(5) The council of each municipality, except a municipality in a school division, shall withhold from the amount levied and collected for a board sufficient funds to meet the annual debt charges payable in the current year by the municipality in respect of debentures issued for the purposes of the board. R.S.O. 1970, c. 424, s. 79 (1); 1971, c. 90, s. 12.

Deficiency payable by board

(6) Where the debt charges payable by a municipality referred to in subsection 5 on behalf of a board are more than the amount levied by the municipality for the cost of

operation of the board, the board shall make a payment equal to the deficiency to the municipality on or before the date or dates on which the debt charges are payable. R.S.O. 1970, c. 424, s. 79 (2).

Estimates

205.—(1) Every divisional board in each year shall prepare and adopt estimates of all sums required during the year for public school purposes and for secondary school purposes respectively, and such estimates,

(*a*) shall set forth the estimated revenues and expenditures of the board including debt charges payable by the divisional board or on its behalf by the council of a municipality or a county;

(*b*) shall make due allowance for a surplus of any previous year that will be available during the current year;

(*c*) shall provide for any deficit of any previous year;

(*d*) may provide for expenditures for permanent improvements and for an allocation to a reserve fund, provided that the total of expenditures for permanent improvements referred to in subparagraphs i, ii, iii and vii of paragraph 33 of subsection 1 of section 1 and any sum allocated to a reserve fund,

(i) for secondary school purposes, shall not exceed an amount calculated at one mill in the dollar upon the total of the equalized assessments of the municipalities and localities in the school division, and

(ii) for public school purposes, shall not exceed an amount calculated at one mill in the dollar upon the total of the equalized assessments of the property rateable for public school purposes in the municipalities and localities in the school division; and

(*e*) may provide for a reserve for working funds of a sum not in excess of 5 per cent of the expenditures of the board for the preceding year, but, where the sum accumulated in the reserve is equal to or more than 20 per cent of such expenditures, no further sum shall be provided,

and shall submit to the council of each municipality all or part of which is in the school division on or before the 1st

day of March in each year a statement indicating the amount of the estimates for public school purposes and for secondary school purposes to be raised by each council and a requisition of the amount of the estimates for public school purposes and for secondary school purposes required to be raised by the council in respect of the municipality or part thereof. R.S.O. 1970, c. 424, ss. 75 (2), 76, 77; R.S.O. 1970, c. 425, s. 31 (1); 1972, c. 75, s. 7 (1).

Interpretation

(2) In subsection 1, "equalized assessment" for a municipality or a locality means the assessment upon which taxes are levied in the municipality or locality, as the case may be, in the year for which the estimates are adopted as adjusted by the latest assessment equalization factor applicable thereto that is provided by the Minister. 1972, c. 75, s. 7 (2).

Cost to be included in estimates

(3) The cost of operation of schools for trainable retarded children shall be included in the estimates of the divisional board for secondary school purposes under subsection 1. R.S.O. 1970, c. 425, s. 76, *amended*.

Reserve fund limitation exception

(4) The limitation on the sum that a board may allocate to a reserve fund under clause *d* of subsection 1 does not apply to revenue received by a board in any year from the sale or disposal of, or insurance proceeds in respect of, permanent improvements.

Idem

(5) The limitation on the sum that a board may include in its estimates for permanent improvements under clause *d* of subsection 1 does not apply to revenue received by a board in any year from the sale or disposal of, or insurance proceeds in respect of, permanent improvements or to an expenditure from a reserve fund for the purpose for which such fund was established or to the portion of an expenditure for a permanent improvement receivable by way of a grant under section 9 of *The Community Centres Act* or receivable from a municipality pursuant to an agreement under section 157.

R.S.O. 1970, c. 73

Expenditure of reserve fund moneys

(6) The moneys raised for, or held in, a reserve fund by a board shall not be expended, pledged or applied to any purpose other than that for which the fund was established without the approval of the Minister and subsection 4 of section 308 of *The Municipal Act* does not apply to such moneys. 1972, c. 136, s. 3.

R.S.O. 1970, c. 284

Where estimates submitted after March 1st

(7) Where, in any year, a divisional board is unable to submit the statement and requisition required under subsection 1 to the council of each municipality in the school division on or before the 1st day of March, the later submission thereof does not relieve the council of its duty under subsection 1 of section 208 to levy and collect the amount required by the divisional board.

(8) Where, in any year, the council of a municipality is required, by reason of receiving the requisition of a divisional board under subsection 1 after the 1st day of March, to levy the amount required by the divisional board by a separate levy from the amount levied for municipal purposes, the divisional board, on the request of the treasurer of the municipality, shall pay to the treasurer the cost of levying the amount required by the divisional board.

Where cost of separate levy payable by divisional board

(9) Subsection 5 of section 307 of *The Municipal Act* does not apply to divisional boards. R.S.O. 1970, c. 425, s. 31 (2-4).

Requirement re estimates R.S.O. 1970, c. 284

(10) Except where inconsistent with the provisions of *The Municipality of Metropolitan Toronto Act*, this section applies, *mutatis mutandis*, to a board of education for an area municipality under such Act. *New*.

Application to board of education R.S.O. 1970, c. 295

(11) The provisions of this section that apply in respect of the public school purposes of a divisional board apply to a public school board. 1973, c. 37, s. 7, *amended*.

Application to public school board

(12) The provisions of this section that apply in respect of the secondary school purposes of a divisional board apply to a secondary school board. 1972, c. 136, s. 1.

Interpretation

206.—(1) In this section, "equalized assessment" for a municipality or a locality means the assessment upon which taxes are levied in the municipality or locality, as the case may be, in the year for which the apportionment is made as adjusted by the latest assessment equalization factor applicable thereto that is provided by the Minister. 1972, c. 75, s. 8 (1).

Application to secondary school board

(2) Where, in any year, territory without municipal organization is included in a school division and property therein is assessed for the first time for the purpose of levying rates and collecting taxes for school purposes, such assessment shall, for the purposes of apportionment of costs for that year under this section, be the assessment on which taxes are levied in that year and a request for arbitration under subsection 10 may be made within thirty days after receiving the apportionment from the divisional board. R.S.O. 1970, c. 425, s. 32 (2).

Apportionment where unorganized territory becomes part of school division

(3) The sum required by a divisional board for secondary school purposes shall be apportioned among the municipalities and localities in the school division in the proportion that the equalized assessment of the property rateable for secondary school purposes in each such municipality or locality bears to the equalized assessment of all the property

Apportionment, secondary school purposes

rateable for secondary school purposes in the school division. R.S.O. 1970, c. 425, s. 32 (3); 1972, c. 75, s. 8 (2).

Apportionment, public school purposes

(4) The sum required by a divisional board for public school purposes shall be apportioned among the municipalities and localities in the school division in the proportion that the equalized assessment of the property rateable for public school purposes in each such municipality or locality bears to the equalized assessment of all the property rateable for public school purposes in the school division. R.S.O. 1970, c. 425, s. 32 (4); 1972, c. 75, s. 8 (3).

Request for arbitration

(5) Where, in respect of any year, the council of a municipality is of the opinion that the apportionment made under subsection 3 or 4 imposes an undue burden on the ratepayers of the municipality or of part thereof, the council may apply to the divisional board, within thirty days after receiving the apportionment from the divisional board, for an arbitration to determine the proportion of the sums required for public school purposes and for secondary school purposes that each municipality or part thereof shall bear in such year. R.S.O. 1970, c. 425, s. 32 (5).

Arbitrators

(6) Upon receipt of the application, the divisional board shall direct its chief executive officer to call a meeting of the treasurer of the county or the regional municipality or, in the case of The Muskoka Board of Education, the treasurer of The District Municipality of Muskoka and the treasurers of the municipalities within the school division, and these treasurers shall be arbitrators to determine the proportion of the amounts to be raised by each municipality. R.S.O. 1970, c. 425, s. 32 (7); 1972, c. 75, s. 8 (4).

Notification of decision

(7) The arbitrators shall make their decision in writing and file a copy thereof with the chief executive officer of the divisional board who shall forthwith send a copy of the decision to the clerk of each municipality by registered mail.

Reference to O.M.B.

(8) If, within thirty days of the mailing of copies of the decision by the chief executive officer, the council of one of the municipalities files with the chief executive officer a written objection to the decision of the arbitrators, the divisional board shall refer the matter to the Ontario Municipal Board whose decision is final.

Effect of decision

(9) The decision of the arbitrators, or, if the matter is referred to the Ontario Municipal Board, the decision of the Ontario Municipal Board, is effective for the year in respect of which the decision is made.

(10) In territory without municipal organization that is deemed to be a district municipality in a school division, five ratepayers resident in such district municipality have the same powers as the council of a municipality under subsections 5 and 8 and may appoint one ratepayer to act as treasurer for the purposes of this section and, where any disagreement arises in respect of such appointed treasurer, the chief executive officer of the divisional board shall designate the person so to act. R.S.O. 1970, c. 425, s. 32 (8-11). Territory without municipal organization

(11) Where in respect of any year a municipality in a school division has, under section 208, levied the amounts that were requisitioned by the divisional board and such amounts are altered by a decision of the arbitrators or by a decision of the Ontario Municipal Board, an overpayment or an underpayment in respect of the municipality or part, resulting from such alteration, shall be adjusted in the levy for the year following the year in which a final decision is received by the board except that, where such decision is received by the board in January, the adjustment shall be made in the levy for the year in which the decision is received. R.S.O. 1970, c. 425, s. 32 (12); 1973, c. 91, s. 2. Adjustment as result of arbitration

207.—(1) The Lieutenant Governor in Council may make regulations providing for the apportionment of the sums required by a divisional board for secondary school purposes and for public school purposes for any year among the municipalities or parts thereof and localities in the school division. R.S.O. 1970, c. 425, s. 33 (2); 1972, c. 75, s. 9 (2). Regulations for apportionment in year 1970 and any subsequent year

(2) Notwithstanding subsections 3 and 4 of section 206, the sums required by a divisional board for secondary school purposes and for public school purposes for any year to which a regulation made under this section is applicable shall be apportioned among the municipalities or parts thereof and localities in the school division in accordance with such regulation. R.S.O. 1970, c. 425, s. 33 (3); 1972, c. 75, s. 9 (3). Apportionment

(3) Where, in making the apportionment in accordance with a regulation made under this section, estimated data are used, an overpayment or an underpayment by a municipality or part thereof or a locality, determined on the basis of actual data, shall be adjusted in the levy for the following year. R.S.O. 1970, c. 425, s. 33 (4); 1972, c. 75, s. 9 (4). Where estimated data used

(4) Where the regulations provide for a grant to a divisional board on behalf of a part of a territorial district that in the year 1968 was not included in a secondary school district, such grant shall be applied to reduce the sum required to be raised under this section in such part of the territorial district. Application of grants

Request for arbitration

(5) Where the council of a municipality is of the opinion that the apportionment made under this section imposes an undue burden on the ratepayers of the municipality or part thereof, the council may apply to the divisional board, within thirty days after receiving such apportionment from the divisional board, for an arbitration to determine the proportion of the sums required for public school purposes and for secondary school purposes that each municipality shall raise in respect of the year for which the request for an arbitration is made, and the provisions of subsections 5 to 11 of section 206 apply *mutatis mutandis*. R.S.O. 1970, c. 425, s. 33 (5, 6).

Rates

208.—(1) The council of each municipality in a school division in each year shall levy and collect,

(*a*) upon all the property rateable for public school purposes in the municipality the amount that it is required by the divisional board to raise for public school purposes; and

(*b*) upon all the property rateable for secondary school purposes in the municipality the amount that it is required by the divisional board to raise for secondary school purposes.

Payment to boards

(2) Subject to subsection 3, the council of each municipality in a school division in each year shall pay to the divisional board the amounts required to be raised by the municipality for public school purposes and for secondary school purposes, in the following instalments:

1. 25 per cent of such amounts on the 31st day of March;

2. 25 per cent of such amounts on the 30th day of June;

3. 25 per cent of such amounts on the 30th day of September; and

4. 25 per cent of such amounts on the 15th day of December,

and in case of non-payment of such instalments or any portion thereof on such dates, the municipality so in default shall pay to the board interest thereon from the day of default to the date that the payment is made at the minimum lending rate of the majority of chartered banks on the day of default and where, with the consent of the board, such instalments or any portion thereof are paid in advance of such dates, the board shall allow to the municipality a discount thereon

from the date of payment to the date upon which the payment is due at the minimum lending rate of the majority of chartered banks on the date of payment.

Agreement

(3) A divisional board may, by agreement with a majority of the municipalities in the school division where such municipalities represent at least two-thirds of the equalized assessment in the school division, provide for any number of instalments and the amounts and due dates thereof other than those provided in subsection 2, which shall be applicable to all municipalities in the school division and otherwise subsection 2 applies *mutatis mutandis*.

Termination of agreement

(4) Where an agreement under subsection 3 does not provide for its termination, it shall continue in force from year to year until it is terminated on the 31st day of December in any year by notice given before the 31st day of October in such year,

(*a*) by the chief executive officer of the divisional board as authorized by a resolution of the divisional board; or

(*b*) by the clerks of the majority of the municipalities which represent at least two-thirds of the equalized assessment in the school division as determined under subsection 1 of section 206,

and where no agreement is in effect under subsection 3, the payments shall be made as provided in subsection 2.

Where instalment due before requisition received

(5) Where, in any year, for any reason, the amounts required to be raised under subsection 1 have not been requisitioned before the date upon which an instalment is due, the amount of the instalment shall be based upon the requisition of the previous year and paid on the due date, and in the case of late payment or prepayment of all or part of such instalment the interest or discount under subsection 2 shall apply thereto, and the necessary adjustment shall be made in the instalment due next following the date upon which the requisition of the divisional board is received. R.S.O. 1970, c. 425, s. 34 (1-5).

Application to separate schools

(6) Where a county or district combined separate school board has requested the municipalities that are in whole or in part within the county or district combined separate school zone to levy and collect the rates or taxes imposed by the board, the provisions of subsections 1 to 5 apply *mutatis mutandis* to such board and such municipalities except that reference to equalized assessment in the school division shall

be deemed to refer to equalized assessment rateable for separate school purposes in the combined zone. R.S.O. 1970, c. 430, s. 87 (2-5), *amended*.

Application to public school board

(7) The provisions of this section that apply in respect of the public school purposes of a divisional board apply to a public school board. 1971, c. 69, s. 6, *amended*.

Tax notices

R.S.O. 1970, c. 284

209.—(1) Where taxes are collected by a municipal council for the purposes of a board, the notice of taxes given by the collector under section 521 of *The Municipal Act* shall be given separately in relation to taxes imposed for public, secondary or separate school purposes or in such manner as will clearly indicate the taxes imposed for such school purposes. R.S.O. 1970, c. 425, s. 34 (6).

Municipality to account for moneys

(2) The council of a municipality shall annually account for all moneys collected for school purposes, and any sum collected in excess of the amount required by a board to be raised by the municipality for such purposes shall, except where otherwise provided in the Act under which the sum is collected, be retained by the municipality and applied to reduce the amount that the municipality is required by such board to raise for such purposes in the year next following. 1971, c. 68, s. 2.

Correction of errors in collection of rates in previous years

(3) The council of a municipality shall correct any errors or omissions that may have been made within the three years next preceding such correction in the collection of any school rate duly imposed or intended so to be, to the end that no property shall escape from, or be compelled to pay more than, its proper proportion of the rate. R.S.O. 1970, c. 385, s. 48.

Current borrowing

210.—(1) Notwithstanding the provisions of any general or special Act, a board may by resolution authorize the treasurer and the chairman or vice-chairman to borrow from time to time by way of a promissory note, such sums as the board considers necessary to meet the current expenditures of the board until the current revenue has been received, provided that the interest and any other charges connected therewith do not exceed the interest that would be payable at the minimum lending rate of the majority of chartered banks on the date of borrowing. 1973, c. 92, s. 17.

Debt charges

(2) A board may also borrow, in the manner provided in subsection 1, such sums as the board considers necessary to meet debt charges payable in any year until the current revenue has been received.

(3) The amounts that may be borrowed at any one time for the purposes mentioned in subsections 1 and 2, together with the total of any similar borrowings that have not been repaid, shall not exceed the unreceived or uncollected balance of the estimated revenues of the board, as set forth in the estimates adopted for the year. Limitation

(4) Until such estimates are adopted, the limitations upon borrowing prescribed in this section shall temporarily be calculated upon the estimated revenues of the board, as set forth in the estimates adopted for the next preceding year, less the amount of revenues of the current year already collected. When limitation calculated on estimated revenue

(5) At the time, in any year, that any amount is borrowed under this section, the treasurer shall furnish to the lender a copy of the resolution authorizing the borrowing, unless he has previously done so, and as frequently as required by the lender, a statement showing the amount of the estimated revenues of the current year not yet collected or, where the estimates for the current year have not been adopted, a statement showing the amount of the estimated revenues of the board as set forth in the estimates adopted for the next preceding year and the amount of revenues of the current year already collected, and also showing the total amounts borrowed under this section in the current year that have not been repaid. Copy of resolution authorizing borrowing

(6) For the purposes of this section, estimated revenues do not include revenues derivable or derived from the sale of assets, borrowings or issues of debentures or from a surplus including arrears of taxes and proceeds from the sale of assets. R.S.O. 1970, c. 424, s. 71 (2-6). Estimated revenues

211. The fees payable by a board for the education of pupils shall be paid, when requested by the treasurer of the board that provides the education, on an estimated basis at least quarterly during the year in which the education is provided, with such adjustment as may be required when the actual financial data and attendance for the year have been finally determined, and the estimate shall be not less than the rate per pupil chargeable for a similar period in the preceding year times 90 per cent of the number of such pupils enrolled at the beginning of the current school term. R.S.O. 1970, c. 424, s. 72 (5). When fees payable by boards

Reduction of requisition or rates

212.—(1) Where, in any year, provision is made by regulation for a grant to a board for the purpose of limiting in such year the amount of the requisition for public or secondary school purposes or the increase in the mill rate for separate school purposes in respect of,

(*a*) a municipality or part thereof; or

(*b*) a part of territory without municipal organization that is deemed to be a district municipality,

under the jurisdiction of the board, the board shall, in such year, notwithstanding the provisions of any other Act, apply the grant to reduce the amount of the requisition that otherwise would be required for public or secondary school purposes or to reduce the mill rate that otherwise would be required to be levied for separate school purposes, as the case may be, in respect of the municipality or part thereof, or the district municipality. R.S.O. 1970, c. 424, s. 73 (1), *amended*.

Adjustment of rates where under- or over-levy

(2) Where a board that has jurisdiction in more than one municipality or in one municipality and territory without municipal organization ascertains that,

(*a*) the sum that the board requisitioned for public or secondary school purposes from, or levied for separate school purposes in, a municipality or a part thereof or part of territory without municipal organization that is deemed to be a district municipality under Part III for public and secondary school purposes or under Part IV for separate school purposes;

differs from

(*b*) the sum that the board ought to have requisitioned for public or secondary school purposes from, or levied for separate school purposes in, such municipality or part thereof or part of territory without municipal organization in such year in accordance with the provisions of this Act after the application of the grant referred to in subsection 1 that is receivable by the board in such year in respect of such municipality or part thereof or part of territory without municipal organization,

the difference shall be added to or subtracted from the sum that is estimated to be required for public or secondary school purposes from, or levied for separate school purposes in, such municipality or part thereof or part of territory

without municipal organization in the year in which, or in the year next following the year in which, the existence of the difference is ascertained.

Levy for difference

(3) Notwithstanding subsection 2, a board may, with the approval of the Minister, add to or subtract from the sum that is estimated to be required from or levied in a municipality or part thereof or part of territory without municipal organization in each of two or three years, commencing in the year in which, or in the year next following the year in which, the difference referred to in subsection 2 is ascertained, a portion of such difference, so as to make up the total thereof. 1971, c. 90, s. 11.

Where difference not dealt with under subss. 2, 3

(4) Where a difference referred to in subsection 2 was not dealt with by a board in accordance with subsection 2 or 3 before the 1st day of January, 1972, such difference shall be dealt with by the board as if it had been first ascertained in the year 1972. 1972, c. 77, s. 33.

Interpretation

213. In sections 214, 215 and 216,

(*a*) "commercial assessment" means,

(i) the assessment of real property that is used as the basis for computing business assessment including the assessment for real property that is rented and occupied or used by the Crown in right of Canada or any province or any board, commission, corporation or other agency thereof, or by any municipal corporation or local board thereof, and

(ii) business assessment, and

(iii) the assessment for mineral lands, railway lands, other than railway lands actually in use for residential and farming purposes, and pipe lines, and the assessment of telephone and telegraph companies,

according to the last revised assessment roll;

(*b*) "residential and farm assessment" means the assessment for real property except the assessment for real property mentioned in subclauses i and iii of clause *a*, according to the last revised assessment roll. R.S.O. 1970, c. 424, s. 74.

Data furnished by the municipality

214. The clerk of a municipality shall in each year furnish to each school board having jurisdiction in the municipality, or any parts thereof, information respecting the total of the commercial assessments and of the residential and farm assessments on which rates for the support of the board will be

levied in that year and the amount due and payable in the current year for debt charges on debentures issued by the municipality in respect of the board. R.S.O. 1970, c. 424, s. 75 (1).

Determination of rates

215.—(1) Rates to be levied for each school board in each municipality or part thereof or part of territory without municipal organization shall be determined in the following manner:

1. Add 90 per cent of the residential and farm assessment in the municipality or part or part of territory without municipal organization to the commercial assessment thereof.

2. Multiply the amount estimated by the board to be raised by levy on the assessment according to the last revised assessment roll for the municipality or part or part of territory without municipal organization by 1,000 and divide the product by the total determined under paragraph 1.

3. The rate to be levied on commercial assessment shall be the rate determined under paragraph 2.

4. The rate to be levied on residential and farm assessment shall be 90 per cent of the rate determined under paragraph 2.

Who to determine rates

(2) Subject to subsection 3, the rates shall be determined by the council of each municipality for each board that has jurisdiction in the municipality.

Idem

(3) A separate school board shall determine the rates to be levied for separate school purposes, and a public or secondary school board shall determine the public or secondary school rates to be levied in respect of territory without municipal organization that is within its area of jurisdiction. R.S.O. 1970, c. 424, s. 78, *amended*.

Assessments for school purposes

R.S.O. 1970, c. 32

216. The clerk of each municipality and each secretary of a board in territory without municipal organization, in addition to the particulars required under subsection 1 of section 17 of *The Assessment Act*, shall prepare the following particulars:

1. the commercial assessment for public school purposes;

2. the residential and farm assessment for public school purposes;

3. the commercial assessment for separate school purposes;

4. the residential and farm assessment for separate school purposes;

5. where two or more school jurisdictions, or parts thereof, are situated in the municipality, the school jurisdiction and the commercial assessment and residential and farm assessment in each such jurisdiction. R.S.O. 1970, c. 424, s. 80.

Levying of school rates

217. The council of every local municipality, every public school board that has jurisdiction only in territory without municipal organization, every divisional board that has jurisdiction in any territory without municipal organization that is deemed a district municipality in a school division, and every separate school board in each year shall levy or cause to be levied on the whole of the assessment for real property and business assessment for public, secondary and separate school purposes, as the case may be, according to the last revised assessment roll, the rates determined for each public, secondary and separate school board having jurisdiction in the municipality, or a part thereof, or in territory without municipal organization, as the case may be. R.S.O. 1970, c. 424, s. 81.

This Part to prevail where conflict

218. In the event of a conflict between any provision in sections 213 to 217 and any provision in any other general or special Act, the provision in sections 213 to 217 prevails. R.S.O. 1970, c. 424, s. 82.

Rates for public library in unorganized territory in school division

219. Where a public library has been established for a school section in territory without municipal organization that is deemed a district municipality within a school division under subsection 3 of section 50, the divisional board of the school division shall be deemed to be a municipal council for such district municipality under section 23 of *The Public Libraries Act*, and the amount of the estimates of the board of the public library appropriated for such board by the divisional board of the school division shall be raised by a levy imposed by the divisional board on all the rateable property in the district municipality. R.S.O. 1970, c. 425, s. 27 (6).

R.S.O. 1970, c. 381

Interpretation

220.—(1) In this section and in section 221,

(*a*) "trailer" means, any vehicle, whether self-propelled or so constructed that it is suitable for being attached to a motor vehicle for the purpose of being drawn or

propelled by the motor vehicle, that is capable of being used for the living, sleeping or eating accommodation of persons, notwithstanding that such vehicle is jacked-up or that its running gear is removed;

(*b*) "trailer camp" or "trailer park" means land in or upon which any trailer is placed, located, kept or maintained, but not including any vehicle unless it is used for the living, sleeping or eating accommodation of persons therein. *New*.

Share of licence fees for trailers to be paid to boards

(2) Except as provided in subsection 3, where a trailer is located in a trailer camp or elsewhere in a municipality and licence fees are collected for the trailer or for the land occupied by the trailer in a trailer camp in any year, the council of a municipality shall pay,

(*a*) to the public school board having jurisdiction in the school section in which the trailer is located a share of the licence fees collected in the same proportion as the rate levied in that part of the municipality for public school purposes bears to the total of the rates levied in that part of the municipality for public and secondary school purposes and municipal purposes; and

(*b*) to the secondary school board having jurisdiction in the secondary school district in which the trailer is located a share of the licence fees collected in the same proportion as the rate levied in that part of the municipality for secondary school purposes bears to the total of the rates levied in that part of the municipality for public and secondary school purposes and municipal purposes.

Idem

(3) Where the occupant of a trailer has given to the clerk of the municipality in which the trailer is located a notice in writing stating that he is a Roman Catholic and desires to be a supporter of a separate school that is situated within three miles of the trailer and within the municipality or a municipality contiguous thereto, the council of the municipality shall pay,

(*a*) to the board of the separate school a share of the licence fees collected with respect to such trailer in the same proportion as the rate levied for separate school purposes in that part of the municipality that is within three miles of the separate school bears to the total of the rates levied in such part of the municipality for separate and secondary school purposes and municipal purposes; and

(*b*) to the secondary school board having jurisdiction in the secondary school district in which the trailer is located a share of the licence fees collected with respect to such trailer in the same proportion as the rate levied for secondary school purposes in such district bears to the total of the rates levied for separate and secondary school purposes and municipal purposes in that part of the district within three miles of the separate school. R.S.O. 1970, c. 424, s. 100 (1, 2), *amended*.

Licence fees not part of annual rates

(4) The share of the licence fees payable to a board by the council of a municipality under this section shall be in addition to any other amount that is payable to the board by the municipality, and shall be paid to the board on or before the 15th day of December in the year for which the licence fees are collected. 1971, c. 90, s. 13.

Application to municipally operated camps

(5) This section does not apply to trailer camps and trailer parks operated by a municipality. R.S.O. 1970, c. 424, s. 100 (3).

Levy on trailer in public school section in unorganized territory

221.—(1) Except as provided in subsection 2, the owner, lessee or person having possession of a trailer that is located in territory without municipal organization in a public school section shall pay to the public school board, on or before the first day of each month, a fee of $5 in respect of such trailer for each month or part thereof, except July and August, that the trailer is so located.

Levy on trailer re separate school in unorganized territory

(2) Where the occupant of a trailer that is located in territory without municipal organization is a Roman Catholic and signifies in writing to the separate school board and if the trailer is located in a public school section to the chief executive officer of the public school board that he is a Roman Catholic and wishes to be a supporter of the separate school that is within three miles of the trailer, the owner or lessee of the trailer shall pay to the separate school board, on or before the first day of each month, a fee of $5 in respect of such trailer for each month or part thereof, except July and August, that the trailer is so located.

Levy on trailer in secondary school district in unorganized territory

(3) The owner, lessee or person having possession of a trailer that is located in territory without municipal organization in a secondary school district shall pay to the secondary school board, on or before the first day of each month, a fee of $5 in respect of such trailer for each month or part thereof, except July and August, that the trailer is so located. R.S.O. 1970, c. 424, s. 101 (1-3), *amended*.

Notice

(4) No person is required to pay a fee under this section until he has been notified in writing by the chief executive

officer of the board concerned or the tax collector that he is liable to pay such fee, and upon receipt of such notice the person shall forthwith pay all fees for which he has been made liable under this section before receipt of the notice and shall thereafter pay fees in accordance with subsections 1 to 3.

Content of notice

(5) Every notice under this section shall make reference to this section and shall specify,

(*a*) the amount of fees for which the person is liable on receipt of the notice;

(*b*) the amount of the monthly fee to be paid thereafter;

(*c*) the date by which payment is required to be made;

(*d*) the place at which payment may be made; and

(*e*) the fine provided under this section.

Offence

(6) Every owner or lessee or person having possession of a trailer who permits the trailer to be located in any part of territory without municipal organization in which he is liable for any fee under this section without paying the fee as required under this section is guilty of an offence and on summary conviction is liable to a fine of not less than $10 and not more than $50 and each day that this subsection is contravened shall be deemed to constitute a separate offence. R.S.O. 1970, c. 424, s. 101 (4-6).

Refund of fees where trailer assessed

R.S.O. 1970, c. 32

(7) Where in the year 1974 licence fees have been paid pursuant to this section to a public, separate or secondary school board in relation to a trailer which is assessed under *The Assessment Act* and for which property taxes are due in that year to the public, separate or secondary school board, no further fees are payable to a board under this section after this Act comes into force and the board which collected the licence fees shall refund such fees to the person who paid the fees. *New*.

School rate where no public school in municipality

222. (1) Where, in a municipality, a person is entered on the collector's roll as a public school supporter and there is no public school board to which public school rates, if levied in any year on the taxable property of such person in the municipality, may be paid, there shall be levied and collected annually on the taxable property of such person in the municipality a rate equal to 50 per cent of the rate to be levied in that year for general municipal purposes in the municipality. R.S.O. 1970, c. 385, s. 49.

(2) The moneys raised under subsection 1 shall be deposited in a reserve account for public school purposes and may be invested in such securities as a trustee may invest in under *The Trustee Act*, and the earnings from such investments shall form part of the reserve account. Reserve account R.S.O. 1970, c. 470

(3) Subject to subsection 4, where, in a municipality referred to in subsection 1, a public school board is organized and makes provision for the education of its resident pupils, the municipal council shall pay over to the board such moneys as are held by the municipality under this section, and such moneys, Use of moneys in account

(*a*) shall be used for such expenditures for permanent improvements for public school purposes as the board considers expedient; and

(*b*) in any one year, may be used to defray not more than one-third of the amount that would otherwise be required to be requisitioned by the board for public school purposes from such municipality.

(4) Where a municipality referred to in subsection 1 becomes part of a school division, the municipal council shall pay over to the divisional board such moneys as are held by the municipality and such moneys shall be used as provided in clause *b* of subsection 3. 1972, c. 74, s. 12. Application in a school division

223.—(1) Moneys that are held by a municipality as of the 31st day of December, 1972 and were derived from the Ontario Municipalities Fund or from any other source for public school purposes, except the collection of rates, shall be applied by the municipality in the year 1973 to reduce the rate that would otherwise be required to be levied for public school purposes in the municipality. Reserve fund for public school purposes, application in 1973

(2) Where an area municipality, as defined in *The Regional Municipality of Niagara Act*, holds moneys referred to in subsection 1, such moneys shall be applied by the area municipality in the year 1973 to reduce the rate that would otherwise be required to be levied for public school purposes in the part of the area municipality that, on the 31st day of December, 1969, was a municipality that held such moneys, and where there is more than one such part in the area municipality, the moneys shall be applied by the area municipality in respect of each such part in the ratio in which the moneys were held by the former municipalities. Area municipalities in Niagara Region R.S.O. 1970, c. 406

(3) Where, on the 31st day of December, 1972, a municipality holds moneys referred to in subsection 1 and a portion of such municipality is, on the 1st day of January, 1973, detached therefrom, such moneys shall be apportioned by the Where part of municipality detached

clerk of such municipality between the detached portion and the remainder of the municipality in the ratio that the assessment of the property rateable for public school purposes on which taxes were levied in 1972 in the detached portion bears to such assessment in the remainder of the municipality and the amount so apportioned to the portion detached and the remainder of the municipality shall be applied to reduce the rates that would otherwise be required to be levied for public school purposes in 1973 in the detached portion and in the remainder, and the amount of money apportioned to the detached portion shall, before the 31st day of January, 1973, be paid over to the municipality of which the detached portion becomes a part. 1972, c. 74, s. 13.

PART IX

TEACHERS

Contracts

Full-time or part-time teacher

224.—(1) A full-time or part-time teacher who is employed by a board and who is not an occasional teacher shall be employed as a permanent or a probationary teacher. *New.*

Memorandum of contract

(2) A memorandum of every contract of employment between a board and a permanent teacher or a probationary teacher shall be made in writing in the form of contract prescribed by the regulations, signed by the parties, sealed with the seal of the board and executed before the teacher enters upon his duties, but if for any reason such memorandum is not so made, or has not been amended to incorporate any change made in the form of contract so prescribed, every contract shall be deemed to include the terms and conditions contained in the form of contract prescribed for a permanent teacher. R.S.O. 1970, c. 424, s. 16 (1); 1971, c. 90, s. 2 (1).

Salary of teacher

225.—(1) Unless otherwise expressly agreed and subject to subsections 2 to 5, a teacher is entitled to be paid his salary in the proportion that the total number of school days for which he performs his duties in the school year bears to the total number of school days in the school year. 1973, c. 92, s. 7, *amended.*

Payment for absence due to illness or dental condition

(2) Subject to subsection 3, a permanent, probationary or temporary teacher is entitled to his salary for a total of twenty school days in any one school year in respect of his absence from duty on account of his sickness certified to by a physician or on account of acute inflammatory condition of his teeth or gums certified to by a licentiate of dental surgery, but a board may in its discretion pay the teacher his salary for more than twenty days absence from duty on account

of such sickness or such tooth or gum condition. R.S.O. 1970, c. 424, s. 16 (4).

Part-time teacher

(3) A part-time teacher is entitled to his salary for 10 per cent of the periods of instruction and supervision specified in the agreement for his employment in any one school year in respect of his absence from duty on account of his sickness certified to by a physician or on account of acute inflammatory condition of his teeth or gums certified to by a licentiate of dental surgery, but a board may in its discretion pay the part-time teacher his salary for more than 10 per cent of the periods of instruction and supervision in respect of his absence from duty on account of such sickness or such tooth or gum condition.

Absence of teacher in quarantine

(4) Every teacher is entitled to his salary notwithstanding his absence from duty in any case where, because of exposure to a communicable disease, he is quarantined or otherwise prevented by the order of the medical health authorities from attending upon his duties. R.S.O. 1970, c. 424, s. 16 (6, 7).

Absence by reason of being a juror or witness

(5) A teacher is entitled to his salary notwithstanding his absence from duty by reason of a summons to serve as a juror, or a subpoena as a witness in any proceeding to which he is not a party or one of the persons charged, provided that the teacher pays to the board any fee, exclusive of travelling allowances and living expenses, that he receives as a juror or as a witness. 1972, c. 77, s. 9.

Award of salary by way of penalty

(6) If it appears to the judge on the trial of an action for the recovery of a teacher's salary that there was not reasonable ground for the board disputing its liability or that the failure of the board to pay was from an improper motive, he may award as a penalty a sum not exceeding three months salary.

Failure of board to pay salary when no written agreement

(7) For the purposes of subsection 6, the failure of a board to pay a teacher's salary may be extended by a judge to include failure to pay a teacher's salary when an agreement for his employment has been made by the board but no written memorandum has been made and executed as required by section 224, if the judge is satisfied upon the evidence that the refusal of the board to pay the salary by reason of the absence of a memorandum in writing is without merit. R.S.O. 1970, c. 424, s. 16 (10, 11).

Probationary teacher

226. A board shall not offer to a teacher, and no teacher shall accept, a contract as a probationary teacher for a period greater than,

(*a*) two years where the teacher has less than three years' experience; and

(*b*) one year where the teacher has three or more years' experience,

as a teacher in an elementary or secondary school in Ontario before the commencement of the contract. R.S.O. 1970, c. 424, s. 1 (2), par. 22, *amended*.

Teachers to be qualified

227.—(1) Except as otherwise provided in this Act, no person shall be employed or act as a teacher in an elementary or secondary school unless he is qualified as prescribed by the regulations. R.S.O. 1970, c. 424, s. 18 (1).

Certificates

(2) Subject to this Act, a certificate of qualification as a teacher may be awarded only to a person of good moral character and physically fit to perform the duties of a teacher, who passes the examinations prescribed by, and otherwise complies with, the regulations. R.S.O. 1970, c. 424, s. 18 (2); 1972, c. 77, s. 10.

Idem

(3) All certificates of qualification are valid for such periods as the regulations prescribe. R.S.O. 1970, c. 424, s. 18 (3).

Termination of contract where welfare of school involved

228. Notwithstanding the other provisions of this Part and notwithstanding anything in the contract between the board and the teacher, where a permanent or probationary teacher is employed by a board and a matter arises that in the opinion of the Minister adversely affects the welfare of the school in which the teacher is employed,

(*a*) the board or the teacher may, with the consent of the Minister, give the other party thirty days written notice of termination, and the contract is terminated at the expiration of thirty days from the date the notice is given; or

(*b*) the board may, with the consent of the Minister, give the teacher written notice of immediate termination together with one-tenth of the teacher's yearly salary in addition to the amount to which he would otherwise be entitled, and the contract thereupon is terminated. R.S.O. 1970, c. 111, s. 10 (2).

Duties

Duties of teacher,

229.—(1) It is the duty of a teacher,

teach

(*a*) to teach diligently and faithfully the classes or subjects assigned to him by the principal;

learning

(*b*) to encourage the pupils in the pursuit of learning;

religion and morals

(*c*) to inculcate by precept and example respect for religion and the principles of Judaeo-Christian morality

and the highest regard for truth, justice, loyalty, love of country, humanity, benevolence, sobriety, industry, frugality, purity, temperance and all other virtues;

(*d*) to assist in developing co-operation and co-ordination of effort among the members of the staff of the school; co-operation

(*e*) to maintain, under the direction of the principal, proper order and discipline in his classroom and while on duty in the school and on the school ground; discipline

(*f*) in instruction and in all communications with the pupils in regard to discipline and the management of the school, language of instruction

(i) to use the English language, except where it is impractical to do so by reason of the pupil not understanding English, and except in respect of instruction in a language other than English when such other language is being taught as one of the subjects in the course of study, or

(ii) to use the French language in schools or classes in which French is the language of instruction except where it is impractical to do so by reason of the pupil not understanding French, and except in respect of instruction in a language other than French when such other language is being taught as one of the subjects in the course of study;

(*g*) to conduct his class in accordance with a timetable which shall be accessible to pupils and to the principal and supervisory officers; timetable

(*h*) to participate in professional activity days as designated by the board under the regulations; professional activity days

(*i*) to notify such person as is designated by the board if he is to be absent from school and the reason therefor; absence from school

(*j*) to deliver the register, the school key and other school property in his possession to the board on demand, or when his agreement with the board has expired, or when for any reason his employment has ceased; and school property

(*k*) to use and permit to be used as a textbook in a class that he teaches in an elementary or a secondary school, textbooks

(i) in a subject area for which textbooks are approved by the Minister, only textbooks that are approved by the Minister, and

(ii) in all subject areas, only textbooks that are approved by the board. R.S.O. 1970, c. 424, s. 21 (1); 1972, c. 77, s. 13 (1); 1973, c. 92, s. 8 (1, 2), *amended*.

Refusal to give up school property

(2) A teacher who refuses, on demand or order of the board that operates the school concerned, to deliver to the board any school property in his possession forfeits any claim that he may have against the board. 1972, c. 77, s. 12.

Teachers, conferences

(3) Teachers may organize themselves for the purpose of conducting professional development conferences and seminars. R.S.O. 1970, c. 424, s. 22, *amended*.

Duties of principal,

230. It is the duty of a principal of a school, in addition to his duties as a teacher,

discipline

(*a*) to maintain proper order and discipline in the school;

co-operation

(*b*) to develop co-operation and co-ordination of effort among the members of the staff of the school;

register pupils and record attendance

(*c*) to register the pupils and to ensure that the attendance of pupils for every school day is recorded either in the register supplied by the Minister in accordance with the instructions contained therein or in such other manner as is approved by the Minister;

pupil records

(*d*) to establish and maintain, and to retain, transfer and dispose of, in the manner prescribed by the regulations, a record in respect of each pupil enrolled in the school;

timetable

(*e*) to prepare a timetable, to conduct the school according to such timetable and the school year calendar or calendars applicable thereto, to make the calendar or calendars and the timetable accessible to the pupils, teachers and supervisory officers and to assign classes and subjects to the teachers;

examinations and reports

(*f*) to hold, subject to the approval of the appropriate supervisory officer, such examinations as he considers necessary for the promotion of pupils or for any other purpose and report as required by the board the progress of the pupil to his parent or guardian where the pupil is a minor and otherwise to the pupil;

promote pupils

(*g*) subject to revision by the appropriate supervisory officer, to promote such pupils as he considers proper and to issue to each such pupil a statement thereof;

(*h*) to ensure that all textbooks used by pupils are those approved by the board and, in the case of subject areas for which the Minister approves textbooks, those approved by the Minister; textbooks

(*i*) to furnish to the Ministry and to the appropriate supervisory officer any information that it may be in his power to give respecting the condition of the school premises, the discipline of the school, the progress of the pupils and any other matter affecting the interests of the school, and to prepare such reports for the board as are required by the board; reports

(*j*) to give assiduous attention to the health and comfort of the pupils, to the cleanliness, temperature and ventilation of the school, to the care of all teaching materials and other school property, and to the condition and appearance of the school buildings and grounds; care of pupils and property

(*k*) to report promptly to the board and to the municipal health officer or to the school medical officer where one has been appointed, when he has reason to suspect the existence of any infectious or contagious disease in the school, and of the unsanitary condition of any part of the school building or the school grounds; report to M.O.H.

(*l*) to refuse admission to the school of any person who he believes is infected with or exposed to communicable diseases requiring quarantine and placarding under regulations made pursuant to *The Public Health Act* until furnished with a certificate of a medical officer of health or of a legally qualified medical practitioner approved by him that all danger from exposure to contact with such pupil has passed; pupils with communicable diseases R.S.O. 1970, c. 377

(*m*) subject to an appeal to the board, to refuse to admit to the school or classroom a person whose presence in the school or classroom would in his judgment be detrimental to the physical or mental well-being of the pupils; and access to school or class

(*n*) to maintain a visitor's book in the school when so determined by the board. R.S.O. 1970, c. 424, s. 21 (2); 1972, c. 77, s. 13 (2, 3); 1973, c. 92, s. 8 (3), *amended*. visitor's book

Pupil Records

Interpretation

231.—(1) In this section, except in subsection 12, "record" in respect of a pupil means a record maintained or retained by the principal of a school in accordance with the regulations.

Pupil records privileged

(2) A record is privileged for the information and use of supervisory officers and the principal and teachers of the school for the improvement of instruction of the pupil, and such record,

(*a*) subject to subsections 3 and 5, is not available to any other person; and

(*b*) except for the purposes of subsection 5, is not admissible in evidence for any purpose in any trial, inquest, inquiry, examination, hearing or other proceeding, except to prove the establishment, maintenance, retention or transfer of the record,

without the written permission of the parent or guardian of the pupil or, where the pupil is an adult, the written permission of the pupil.

Right of parent and pupil

(3) A pupil, and his parent or guardian where the pupil is a minor, is entitled to examine the record of such pupil.

Idem

(4) Where, in the opinion of a pupil who is an adult, or of the parent or guardian of a pupil who is a minor, information recorded upon the record of the pupil is,

(*a*) inaccurately recorded; or

(*b*) not conducive to the improvement of instruction of the pupil,

such pupil, parent or guardian, as the case may be, may, in writing, request the principal to correct the alleged inaccuracy in, or to remove the impugned information from, such record. 1972, c. 77, s. 14, *part*.

Reference where disagreement

(5) Where the principal refuses to comply with a request under subsection 4, the pupil, parent or guardian who made the request may, in writing, require the principal to refer the

request to the appropriate supervisory officer who shall either require the principal to comply with the request or submit the record and the request to a person designated by the Minister, and such person shall hold a hearing at which the principal and the person who made the request are the parties to the proceedings, and the person so designated shall, after the hearing, decide the matter, and his decision is final and binding upon the parties to the proceedings. 1973, c. 92, s. 9.

Use re further education or employment

(6) Nothing in subsection 2 prohibits the use by the principal of the record in respect of a pupil to assist in the preparation of,

(*a*) a report required by this Act or the regulations; or

(*b*) a report,

(i) for an educational institution or for the pupil or former pupil, in respect of an application for further education, or

(ii) for the pupil or former pupil in respect of an application for employment,

where a written request is made by the former pupil, the pupil where he is an adult, or the parent or guardian of the pupil where the pupil is a minor.

Information for Minister or board

(7) Nothing in this section prevents the compilation and delivery of such information as may be required by the Minister or by the board.

No action re content

(8) No action shall be brought against any person in respect of the content of a record.

Testimony re content

(9) Except where the record has been introduced in evidence as provided in this section, no person shall be required in any trial or other proceeding to give evidence in respect of the content of a record.

Secrecy re contents

(10) Except as permitted under this section, every person shall preserve secrecy in respect of the content of a record that comes to his knowledge in the course of his duties or employment, and no such person shall communicate any such knowledge to any other person except,

(*a*) as may be required in the performance of his duties; or

(*b*) with the written consent of the parent or guardian of the pupil where the pupil is a minor; or

(*c*) with the written consent of the pupil where the pupil is an adult.

Interpretation

(11) For the purposes of this section, "guardian" includes a person, society or corporation who or that has custody of a pupil.

Application to former records

(12) This section, except subsections 3, 4 and 5, applies *mutatis mutandis* to a record established and maintained in respect of a pupil or retained in respect of a former pupil prior to the 1st day of September, 1972. 1972, c. 77, s. 14, *part*.

Use of record in disciplinary cases

(13) Nothing in this section prevents the use of a record in respect of a pupil by the principal of the school attended by the pupil or the board that operates the school for the purposes of a disciplinary proceeding instituted by the principal in respect of conduct for which the pupil is responsible to the principal. *New*.

Boards of Reference

Interpretation

232. In sections 233 to 242,

(*a*) "contract" means a contract of employment between a teacher and a board;

(*b*) "employed" means employed as a permanent teacher by a board;

(*c*) "judge" means a judge of a county or district court;

(*d*) "teacher" means a person qualified to teach in an elementary or secondary school and employed by a board on the terms and conditions contained in the form of contract prescribed for a permanent teacher. R.S.O. 1970, c. 424, s. 23, *amended*.

Termination of contract by board

233.—(1) The dismissal of a teacher, or the termination of the contract of a teacher, by a board shall be by notice in writing, which shall state the reasons therefor, in accordance with the terms of the contract.

Termination of contract by teacher

(2) Where a teacher is employed by a board, the termination of the contract by the teacher shall be by notice in writing in accordance with the terms of the contract.

Application for board

(3) Where a teacher is dismissed or the contract of a teacher is terminated by the board or the teacher, the teacher or board if not in agreement with the dismissal or termination may at any time within twenty-one days after receiving the

notice referred to in subsection 1 or 2, as the case may be, apply in writing by registered letter to the Minister for a Board of Reference, stating the disagreement.

Service of notice

(4) The applicant shall send a copy of the application by registered mail to the other party to the disagreement on the same day as the application is sent to the Minister. R.S.O. 1970, c. 424, s. 24.

Appointment in place of teacher dismissed

234.—(1) A board shall not make a permanent appointment to take the place of a teacher who is dismissed or whose contract has been terminated in a manner not agreeable to the teacher until,

(*a*) the time prescribed for applying for a Board of Reference has elapsed and the teacher has not applied for a Board of Reference and sent a copy of the application to the board, as provided in section 233;

(*b*) the board has received from the teacher notice in writing that no application will be made under section 233;

(*c*) the board has received from the Minister notice in writing that an application made by the teacher under section 233 has been withdrawn;

(*d*) the board has received from the Minister notice in writing that he has refused an application made by the teacher under section 233;

(*e*) the board has received from the Minister notice in writing that the teacher, being the applicant, has failed to comply with the requirements of subsection 4 of section 235; or

(*f*) the board has received from the Minister a copy of the direction of the Board of Reference under section 238 directing the discontinuance of the contract,

whichever first occurs.

New contract after termination of contract by teacher

(2) A teacher who terminates a contract in a manner not agreeable to the board shall not enter into a contract with another board after the teacher has received notice of the application of the board for a Board of Reference until,

(*a*) the teacher has received from the Minister notice in writing that an application made by the board under section 233 has been withdrawn;

(*b*) the teacher has received from the Minister notice in writing that he has refused an application made by the board under section 233;

(*c*) the teacher has received from the Minister notice in writing that the board, being the applicant, has failed to comply with the requirements of subsection 4 of section 235; or

(*d*) the teacher has received from the Board of Reference a copy of the direction of the Board of Reference under section 238 directing the discontinuance of the contract,

whichever first occurs. R.S.O. 1970, c. 424, s. 25, *amended*.

Application for Board of Reference

235.—(1) Upon receipt of an application for a Board of Reference, the Minister shall cause notice of the application to be sent by registered mail to the other party to the disagreement and shall within thirty days of sending the notice inquire into the disagreement and shall, within the same time,

(*a*) refuse to grant the Board of Reference; or

(*b*) grant the Board of Reference and appoint a judge to act as chairman thereof. R.S.O. 1970, c. 424, s. 26 (1).

Appointment

(2) Where, under subsection 1, a judge is appointed after the expiry of thirty days referred to therein to act as chairman of a Board of Reference, the failure to make the appointment within the thirty-day period does not invalidate the Board of Reference or the appointment of the judge as chairman thereof, provided the Board of Reference is granted in accordance with subsection 1. 1971, c. 90, s. 4.

Security for costs

(3) Before appointing a judge to act as chairman of a Board of Reference, the Minister may require the applicant to furnish security for costs in such amount and in such form as he considers advisable.

Naming of representatives

(4) Upon appointing a judge to act as chairman of a Board of Reference, the Minister shall cause notice thereof to be sent by registered mail to the board and teacher involved in the disagreement and the notice shall require each of them to name to the Board of Reference a representative who is not the teacher involved or a member of the board and to send or cause to be sent by hand or by registered mail to the Minister a notice of such nomination within twelve days of the sending of the notice by the Minister.

(5) If the applicant fails to comply with the requirements of subsection 4, the application shall be deemed to be abandoned and the Minister shall cause notice thereof to be sent by registered mail to the other party to the disagreement. Failure to name representatives

(6) If the respondent fails to comply with the requirements of subsection 4, the Minister shall direct the continuance of the contract. Idem

(7) If the representative of the board or the teacher, having been named, fails to appear at the hearing, the chairman of the Board of Reference shall name a representative for the board or teacher, as the case may be. R.S.O. 1970, c. 424, s. 26 (3-6). Failure of representatives to appear

(8) Where the Minister grants a Board of Reference, the applicant shall be deemed to have met the conditions precedent to the granting of a Board of Reference. *New*. Applicant deemed eligible

(9) Where, after the hearing has commenced, the representative of the board or of the teacher dies, for any reason is unable to continue to act or withdraws from the Board of Reference, the other representative shall withdraw and the decision of the Board of Reference shall be made by the chairman. 1972, c. 160, s. 1. Death or withdrawal of representative

(10) Where, before the hearing has commenced, the chairman of a Board of Reference dies, disqualifies himself, for any reason is unable to act or is prohibited from acting, the Minister shall appoint another judge to act as chairman and the Board of Reference shall proceed in accordance with this Part except that for the purposes of section 236 the date of appointment of the chairman is the date of appointment of the chairman appointed to act under this section. Death, etc., of chairman before hearing

(11) Where, after the hearing has commenced and before the chairman of a Board of Reference reports to the Minister and to the parties, New Board of Reference after hearing commences

(*a*) the chairman dies, disqualifies himself, for any reason is unable to continue as chairman, or is prohibited from acting; or

(*b*) the Board of Reference is prohibited from acting or proceeding,

the Board of Reference is terminated and, where, within ninety days after the death, disqualification, inability to continue or prohibition referred to in clause *a* or *b*, the person who applied for the Board of Reference requests the Minister in

writing to grant another Board of Reference, the Minister may grant a new Board of Reference, in which case the provisions of this Part apply *mutatis mutandis* except that the representatives named to the new Board of Reference shall not be the representatives named to the Board of Reference terminated under this subsection and the determination and direction of the costs under section 241 may include the costs, if any, incurred in respect of the Board of Reference terminated under this subsection.

Procedure at new Board of Reference

(12) Where a new Board of Reference is granted under subsection 11, the hearing shall proceed as if the hearing by the Board of Reference terminated under subsection 11 had not commenced. 1972, c. 160, s. 2.

Place and time of hearing

236. The chairman of the Board of Reference shall, within thirty days of his appointment, and upon reasonable notice thereof to the parties, convene the Board of Reference in any appropriate and convenient court house or municipal or school building and at such time as he may appoint. R.S.O. 1970, c. 424, s. 27.

Duty to inquire and powers of judge
1971, c. 49

237. The Board of Reference shall inquire into the matter in dispute and for such purposes the chairman has the powers of a commission under Part II of *The Public Inquiries Act, 1971*, which Part applies to such inquiry as if it were an inquiry under that Act. R.S.O. 1970, c. 424, s. 28 (1), *amended*.

Direction of Board of Reference to report

238.—(1) A Board of Reference shall direct the continuance of the contract or the discontinuance of the contract. 1972, c. 160, s. 4, *part*.

Chairman of Board of Reference to report

(2) The chairman of a Board of Reference shall, within seven days after,

(*a*) the application for the Board of Reference is withdrawn; or

(*b*) the matter in dispute has been settled by the parties to the Board of Reference; or

(*c*) the completion of the hearing and the receipt of any written submissions required by him,

report to the Minister and the parties the disposition of the application. 1972, c. 160, s. 4, *part, amended*.

New Board of Reference provided

239. Where the report or the direction of the Board of Reference is set aside upon a judicial review of the jurisdiction of the Board of Reference, the Minister may grant a new

Board of Reference if the board or teacher applies therefor to the Minister by registered mail within fifteen days after the date of the order of the court setting aside the report or direction, and the provisions of sections 232 to 242 apply *mutatis mutandis* in respect of the new Board of Reference. 1972, c. 77, s. 15.

Direction of Board

240.—(1) The direction of the Board of Reference under section 238 is binding upon the board and the teacher. R.S.O. 1970, c. 424, s. 30 (1).

Failure to comply with direction of Board

(2) If a board fails to comply with the direction of the Board of Reference under section 238, the Minister may direct that any portion of the amounts then or thereafter payable to the board under the authority of any Act of the Legislature shall not be paid to the board until it has complied with the direction. R.S.O. 1970, c. 424, s. 30 (2); 1972, c. 77, s. 16.

Idem

(3) If a teacher fails to comply with the direction of the Board of Reference under section 238, the Minister may suspend the certificate of qualification of the teacher for such period as he considers advisable. R.S.O. 1970, c. 424, s. 30 (3).

Payment of costs

241. Subject to the regulations made under section 242, the chairman of the Board of Reference shall determine and direct the costs to be paid by either or both parties in the disagreement, and every such order may be enforced in the same manner as an order as to costs made in an action in a county or district court. R.S.O. 1970, c. 424, s. 31.

Regulations

242. The Lieutenant Governor in Council may make regulations,

(*a*) fixing the remuneration of members of Boards of Reference and defining, prescribing and limiting other items of expense, including travelling and living expenses, which shall be included in the costs of a Board of Reference;

(*b*) regulating the practice and procedure to be followed upon any reference; and

(*c*) respecting any matter necessary or advisable to carry out effectively the intent and purpose of sections 233 to 241. R.S.O. 1970, c. 424, s. 32.

PART X

SUPERVISORY OFFICERS

Qualifications of supervisory officers

243. Every supervisory officer appointed under this Part shall hold the qualifications required by the regulations for a supervisory officer. R.S.O. 1970, c. 424, s. 67, *part*.

Director of education

244. A board of education that had an enrolment in its public and secondary schools of 2,000 or more on the 30th day of September of any year and does not have a director of education shall, on or before the 1st day of August of the year following, appoint a director of education, and he shall hold the qualifications required by the regulations for a supervisory officer. R.S.O. 1970, c. 425, s. 44 (2); 1972, c. 75, s. 15 (2).

Idem

245. A separate school board that had an enrolment in its schools of 2,000 or more on the 30th day of September of any year and does not have a director of education shall, on or before the 1st day of August of the year following, appoint a director of education, and he shall hold the qualifications required by the regulations for a supervisory officer. R.S.O. 1970, c. 430, s. 93 (2); 1972, c. 76, s. 32 (2).

Supervisory officers

246. A board of education having an enrolment in its public and secondary schools of fewer than 2,000 and a county or district combined separate school board having an enrolment in its schools of fewer than 2,000 may appoint such supervisory officers as are approved by the Minister. R.S.O. 1970, c. 425, s. 44 (3); R.S.O. 1970, c. 430, s. 93 (3).

Chief executive officer

247.—(1) A director of education is a supervisory officer and the chief executive officer of the board by which he is employed. R.S.O. 1970, c. 424, s. 68 (3), *amended*.

Idem

(2) The chief executive officer of a board shall, within policies established by the board, develop and maintain an effective organization and the programs required to implement such policies. *New*.

Supervisory officers

248.—(1) Every board that is required to appoint a director of education shall, subject to the regulations, employ such other supervisory officers as it considers necessary to supervise adequately all aspects of the programs under its jurisdiction.

Idem

(2) A board other than a board referred to in subsection 1 may appoint one or more supervisory officers. R.S.O. 1970, c. 424, s. 67, *part*, *amended*.

Appointment of supervisory officers

249.—(1) Where a board appoints one or more supervisory officers, the board,

(*a*) shall designate the title and area of responsibility of each such officer;

(*b*) shall appoint an English-speaking supervisory officer for schools and classes where English is the language of instruction, and a French-speaking supervisory officer for schools and classes where French is the language of instruction, or shall arrange with another board or with the Minister for the services of an English-speaking supervisory officer or a French-speaking supervisory officer where such officer is not appointed by the board; and

(*c*) may assign to a supervisory officer such administrative duties, in addition to those prescribed in section 250 and the regulations, as the board considers expedient.

Confirmation by Minister

(2) No person shall be appointed as a supervisory officer by a board until notice in writing of the proposed appointment and the area of responsibility to be assigned has been given to the Minister and the Minister has confirmed that the person to be appointed is eligible for the position. R.S.O. 1970, c. 424, s. 68 (1, 2), *amended*.

Duties of supervisory officers:

250.—(1) Subject to the regulations, a board or the Minister shall assign the following duties to its or his supervisory officer or officers,

assist teachers

(*a*) to bring about improvement in the quality of education by assisting teachers in their practice;

co-operate with boards

(*b*) to assist and co-operate with school boards to the end that the schools may best serve the needs of the pupils;

visit schools

(*c*) to visit schools and classrooms as the Minister may direct and, where the supervisory officer has been appointed by a board, as the board may direct;

prepare reports

(*d*) to prepare a report of a visit to a school or classroom when required by the Minister and, where the supervisory officer has been appointed by a board, when required by the board;

Acts and regulations

(*e*) to ensure that the schools under his jurisdiction are conducted in accordance with this Act and the regulations;

annual report to Minister

(*f*) to make a general annual report as to the performance of his duties and the condition of the schools in his area of jurisdiction when required by the Minister and, where the supervisory officer has been appointed by a board, when required by the board;

report to M.O.H.

(*g*) to report to the appropriate medical officer of health any case in which the school buildings or premises are found to be in an unsanitary condition;

report to the Minister

(*h*) to furnish the Minister with information respecting any school in his area of jurisdiction whenever required to do so;

supervise business

(*i*) to supervise the business functions of the board; and

supervise buildings and property

(*j*) to supervise the use and maintenance of the buildings and property of the board. R.S.O. 1970, c. 424, s. 70 (1); 1971, c. 90, s. 8, *amended*.

Responsibility to Minister

(2) Every supervisory officer appointed by the Minister is responsible to the Minister for the performance of his duties.

Responsibility to board

(3) Every supervisory officer appointed by a board is responsible to the board through the chief executive officer for the performance of the duties assigned to him by the board. R.S.O. 1970, c. 424, s. 70 (2, 3), *amended*.

Full-time position

(4) Except as otherwise provided by this Act or the regulations, a supervisory officer shall not, without the approval of the Minister, hold any other office, have any other employment or follow any other profession or calling, during his tenure as a supervisory officer. R.S.O. 1970, c. 424, s. 69 (6), *amended*.

Suspension or dismissal of supervisory officer by board

251.—(1) A supervisory officer appointed by a board may be suspended or dismissed by the board, in accordance with the regulations, for neglect of duty, misconduct, inefficiency or physical infirmity.

Notice re suspension or dismissal

(2) Where a board suspends or dismisses a supervisory officer, the board shall forthwith notify in writing the supervisory officer and the Minister of the suspension or dismissal and the reasons therefor. R.S.O. 1970, c. 424, s. 69 (2), *amended*.

PART XI

FRENCH LANGUAGE INSTRUCTION

Elementary

French-language elementary schools and classes

252.—(1) A board of education, public school board or separate school board may establish and maintain elementary schools or classes in elementary schools, including kindergarten classes, for the purpose of providing for the use of the French language in instruction.

French-language classes

(2) Where, after the first school day in September and on or before the 1st day of April in any year, written evidence is presented to a board referred to in subsection 1 that a

number of French-speaking pupils resident in the school section or separate school zone have elected to be taught in the French language, the board shall forthwith determine whether French-speaking pupils can be assembled for this purpose in one or more classes or groups of twenty-five or more and, where the board determines that such pupils can be so assembled, it shall provide for the use of the French language in instruction in such classes or groups commencing on the first school day of the following year.

Idem

(3) Where the evidence referred to in subsection 2 is presented to the board after the 1st day of April and before the first school day in September in any year, the board shall make the determination required under subsection 2 and, where the board determines that French-speaking pupils can be assembled in classes or groups of twenty-five or more for the use of the French language in instruction, the board may, commencing on the first school day in January of the following year, and shall, commencing on the first school day in September of such following year, provide for the use of the French language in instruction in such classes or groups.

French-language schools

(4) Where a board referred to in subsection 1 provides or is required to provide for the use of the French language in instruction and in the opinion of the board the number of pupils who elect to be taught in the French language so warrants, the board shall provide a French-language elementary school.

English as subject of instruction

(5) Notwithstanding subsections 1, 2, 3 and 4, English may be a subject of instruction in any grade and shall be a subject of instruction in Grade 5 and all subsequent grades in an elementary school.

Admission of pupils other than French-speaking pupils

(6) A board, on the request of the parent or guardian of an English-speaking pupil of the board, or of the pupil where he is an adult, may admit the pupil to a class formed under subsection 1, 2 or 3 or to a school provided under subsection 4 if his admission is approved by majority vote of an admissions committee appointed by the board, and composed of the principal of the school to which admission is requested, a teacher who uses the French language in instruction in such school and, subject to subsection 7, a French-speaking supervisory officer employed by the board.

Where board has no French-speaking supervisory officer

(7) Where a board does not employ a French-speaking supervisory officer, it shall arrange for a French-speaking supervisory officer employed by another board or by the Minister to serve as a member of the admissions committee.

English-language schools or classes

(8) Where a board has provided one or more French-language elementary schools under subsection 4 and a number of pupils of the board elect to be taught in the English language, subsections 1, 2 and 3 apply *mutatis mutandis* in respect of provision for the use of the English language in instruction. 1973, c. 92, s. 12, *part*.

Duties and responsibilities of advisory committee in public schools

253. Where a board of education has established a French-language advisory committee under section 256, or an English-language advisory committee under section 266, the committee has the same duties and responsibilities in respect of the French-language schools and classes or English-language schools and classes, as the case may be, that are provided in the public schools operated by the board of education as it has in respect of French-language instructional units or English-language schools and classes, as the case may be, for secondary school purposes. 1973, c. 92, s. 12, *part*.

Secondary

Interpretation

254. In this Part,

(*a*) "board" means a board of education;

(*b*) "committee" means a French-language advisory committee formed under section 256;

(*c*) "French-language instructional unit" means a class, group of classes, or school in which French is the language of instruction;

(*d*) "ratepayer" in respect of a board means a person entitled to vote at an election of members of the board. 1973, c. 91, s. 5, *part*.

French-language schools or classes

255.—(1) A board may establish and maintain secondary schools or classes in secondary schools for the purpose of providing for the use of the French language in instruction, or may enter into an agreement with another board to provide for the admission of resident pupils of the first-mentioned board to one or more French-language instructional units operated by such other board.

French-language schools

(2) Where, after the first school day in September and on or before the 1st day of April in any year, written evidence is presented to a board that a number of French-speaking pupils resident in the secondary school district have elected to be taught in the French language, the board shall forthwith determine whether French-speaking pupils can be assembled for this purpose in one or more classes or groups of twenty

or more and, where the board determines that such pupils can be so assembled, it shall provide for the use of the French language in instruction in such classes or groups commencing on the first school day in the following school year.

Idem

(3) Where the evidence referred to in subsection 2 is presented to the board after the 1st day of April and before the first school day in September in any year, the board shall make the determination required under subsection 2 and, where the board determines that French-speaking pupils can be assembled in classes or groups of twenty or more for the use of the French language in instruction, the board may, commencing on the first school day in January of the following year, and shall, commencing on the first school day in September of such following year, provide for the use of the French language in instruction in such classes or groups.

French-language secondary schools

(4) Where a board provides or is required to provide for the use of the French language in instruction in one or more classes in a secondary school and in the opinion of the board the number of French-speaking pupils who elect to be taught in the French language so warrants, the board shall provide an appropriate unit of a secondary school or, where practicable, a French-language secondary school.

Agreement with another board

(5) Where a board determines that the number of French-speaking pupils who elect to be taught in the French language is not sufficient to justify the establishment of a French-language secondary school, the board shall, in respect of the education of such pupils, consider the possibility of entering into an agreement with another board under section 156 or 161. 1973, c. 91, s. 5, *part*.

Establishment of committee

256.—(1) Where,

(*a*) ten or more French-speaking ratepayers of a secondary school district apply in writing to the board for the establishment or extension in a secondary school of a class, group or program in which the French language is or is to be used in instruction; or

(*b*) a board establishes or extends or decides to establish or extend a class, group or program in which the French language is or is to be used in instruction,

the board shall, within two months of the application, establishment, extension or decision to establish or extend, by resolution, establish a committee and provide for the holding of elections of members thereof, and such elections shall, subject to subsection 6, be held within such period.

Composition

(2) The committee shall consist of nine members and shall be composed of,

(*a*) three members of the board appointed by the board; and

(*b*) six French-speaking ratepayers who are not members of the board but have the qualifications required for members of the board, elected by French-speaking ratepayers of the secondary school district.

Member of elementary board

(3) A member of the committee under clause *b* of subsection 2 may be a member of an elementary school board.

Term of office

(4) A member of a committee shall hold office during the term of the members of the board and until a new board is organized.

Apportionment of members

(5) The board, subject to subsection 8, shall apportion the number of members under clause *b* of subsection 2 among the municipalities and the localities, or among parts or groups of such municipalities or localities, within the jurisdiction of the board as nearly as is practicable in the proportion that the number of French-speaking pupils who elect to be taught in the French language from each such municipality, locality or part or group thereof bears to the total number of such pupils within the area of jurisdiction of the board.

Meetings of French-speaking ratepayers to elect committee members

(6) The board shall make provision for a meeting of its French-speaking ratepayers in respect of each area to which one or more members are apportioned under subsection 5 for the purpose of electing such member or members to the committee, and shall advertise in each of its schools and in the public media serving the local population, the place, date and time of the meeting, and take such additional action to publicize the meeting as it considers expedient.

Idem

(7) Where the election of members of a committee under subsection 1 would otherwise be held within three months before the date of the regular election of members of the board, the election required under subsection 1 shall be held in accordance with section 257.

Consultation with committee re apportionment

(8) For the purpose of the second and subsequent elections of members to a committee, the board shall consult with the committee before making the apportionment referred to in subsection 5 and shall make such apportionment on or before the 1st day of December in the year of a regular election of the board.

(9) Where a French-language committee has been established by a board before this section comes into force and the members thereof have not been appointed or elected in accordance with this section, the board shall establish a committee in accordance with this section, and elections of members of the committee shall be held before the 31st day of October, 1973, and the French-language committee established before this section comes into force is dissolved as of the date upon which such election is completed. 1973, c. 91, s. 5, *part*, *amended*.

Committee to be established in accordance with this section

257. Where a committee has been established and a new board has been elected, a meeting provided under subsection 6 of section 256 to elect a member or members to the committee shall be held on or before the second Wednesday following the first meeting of the newly-elected board commencing at 8 o'clock in the afternoon on such date and at such place as the board may determine, and such meeting may also consider any other matters brought before it, and the provisions of subsection 6 of section 256 respecting the publicizing of the meeting apply. 1973, c. 91, s. 5, *part*.

French-speaking ratepayers to elect subsequent members to committee

258.—(1) The secretary of the board or a person appointed by the board shall call to order each meeting of French-speaking ratepayers under sections 256 and 257 and shall preside thereat for the purpose of electing a chairman of the meeting.

Election of chairman of meeting

(2) The chairman of a meeting shall appoint a secretary who shall record the proceedings of the meeting and perform such other duties as are required by the chairman.

Secretary of meeting

(3) The chairman of a meeting shall conduct the election of the member or members of the committee to be elected at such meeting and shall submit all motions to the meeting in the manner desired by the majority, and the chairman is entitled to vote on any motion and, in the case of an equality of votes with respect to the election of a member of the committee, the chairman shall provide for drawing lots to determine which of the candidates is elected and a motion on which there is an equality of votes is lost.

Procedure at meeting

(4) Notice in writing shall be given by the secretary of a meeting to the secretary of the board designating by their names and addresses the person or persons elected as members of the committee. 1973, c. 91, s. 5, *part*.

Notice of result of election

259.—(1) At the first meeting of the committee, the members shall elect from among themselves a chairman and a vice-chairman.

Chairman and vice-chairman of committee

Quorum

(2) A majority of the members of the committee constitutes a quorum, and the vote of a majority of the members present at a meeting is necessary to bind the committee.

Vote of chairman, equality of votes

(3) On every motion, the chairman may vote, and a motion on which there is an equality of votes is lost.

Special meeting

(4) A special meeting of the committee may be called by the chairman of the committee and shall be called by the chairman upon the request in writing of two members of the committee who shall specify the objects for which the meeting is to be held, and the objects shall be stated in the notice calling the meeting. 1973, c. 91, s. 5, *part*.

Vacancies

260. Every vacancy on a committee for any cause shall be filled by appointment by the board in the case of appointed members and by the elected members of the committee in the case of elected members and every person so appointed shall hold office for the unexpired term of the member whose seat has become vacant. 1973, c. 91, s. 5, *part*.

Recommendations

261.—(1) A committee is responsible for developing proposals designed to meet the educational and cultural needs of the French-speaking pupils and the French-speaking community and for such purpose may make recommendations in respect of,

(*a*) the provision of suitable sites, accommodation and equipment;

(*b*) the establishment, operation and management of French-language instructional units;

(*c*) the use of the French language and of the English language in French-language instructional units;

(*d*) the recruitment and appointment of the required teaching, supervisory and administrative personnel;

(*e*) the establishment of the course of study and the use of textbooks;

(*f*) the development and establishment of special education programs;

(*g*) the establishment of attendance areas for French-language instructional units;

(*h*) the provision of transportation for pupils;

(*i*) the entering into agreements with other boards in respect of the provision of instruction in the French language and supervisory and consultative services;

(*j*) the provision of board, lodging, and transportation for pupils;

(*k*) the development and establishment of adult education programs;

(*l*) the use of any facility and means necessary to meet the educational and cultural needs of the French-speaking community;

(*m*) the provision of summer school programs; and

(*n*) any other matter pertaining to French-language education for French-speaking pupils.

Committee report to board

(2) The committee shall report at each regular meeting of the board.

Board to seek advice of committee

(3) The board shall seek the advice of the committee on all matters affecting the establisnment, program, administration and termination of French-language instructional units before any final decision regarding such matters is taken by the board and shall provide adequate accommodation and staff to implement the decision of the board.

Consideration of recommendations by board

(4) The board shall consider any recommendation submitted to it in writing by the committee and shall not refuse its approval without having given the committee an opportunity to be heard by the board or by any committee of the board to which such recommendation is referred and, where a board refuses a recommendation of the committee, it shall, within thirty days after receiving the recommendation of the committee, forward to the committee written reasons for its refusal.

Referral by committee to Languages of Instruction Commission

(5) Upon receipt of a refusal and the reasons therefor under subsection 4, the committee may, by motion, refer the matter to the Languages of Instruction Commission of Ontario, in which case it shall send to the Commission and to the board copies of the motion, the recommendation of the committee and the written reasons of the board for its refusal. 1973, c. 91, s. 5, *part*.

Attendance of committee chairman at board committee meeting

262.—(1) The chairman of the committee or a member of the committee designated by him may attend any meeting of a committee of the board and shall be given the opportunity

to be heard at such meeting in respect of any matter that affects French-speaking pupils and that is within the jurisdiction of such committee of the board.

Distribution of administrative materials

(2) Notices, agendas and minutes in respect of meetings of the board shall be distributed to members of the committee together with such supporting documents as may be agreed upon by the board and the committee.

Formation of sub-committees

(3) The committee may, at its discretion, form sub-committees to assist it in its work.

Committee may hold public meetings

(4) The committee may hold such public meetings to report upon its work as it considers necessary or desirable. 1973, c. 91, s. 5, *part*.

Resources and services to be provided by board

263.—(1) The board shall make available to the committee the resources and services provided for a committee of the board.

Annual report of committee

(2) The chairman of the committee shall cause to be prepared in French and English an annual report, and the report shall be included in that of the board where the board publishes a report.

Services of professional staff to be provided

(3) The committee may, through the chief executive officer of the board, obtain the advice and assistance of such supervisory officers and teachers employed by the board as the committee may request. 1973, c. 91, s. 5, *part*.

Allowance

264.—(1) Each member of the committee who is not a member of the board shall receive an allowance in accordance with subsection 1 of section 164, except that the maximum allowance shall be based upon the enrolment in French-language instructional units and subsection 5 of the said section 164 applies *mutatis mutandis* to such member.

Attendance at meetings and conferences

(2) The board may authorize a member of the committee to attend on the same basis as a member of the board such conferences and meetings as the board considers necessary or desirable for the effective functioning of the committee, and subsections 3 and 4 of section 164 apply *mutatis mutandis* to a member of the committee.

Provincial association membership fee

(3) The board shall, on behalf of the members of the committee, pay all or part of a fee required for membership in a provincial association of French-language committees where the committee desires such membership. 1973, c. 91, s. 5, *part*.

265. Notwithstanding any other provision in this Part, English or Anglais shall be an obligatory subject of instruction for every pupil of grades 9 to 12 who is enrolled in a French-language school and shall be a required subject for a certificate or diploma issued to such a pupil. 1973, c. 91, s. 5, *part*.

English or Anglais as subject required in grades 9 to 12

266.—(1) Where a board has provided one or more French-language secondary schools and a number of pupils of the board elect to be taught in the English language, section 255 applies *mutatis mutandis* in respect of provision for the use of the English language in instruction.

English-language classes where French-language school or classes established

(2) Where the number of English-speaking pupils of a board is fewer than the number of pupils of the board for whom French is the language of instruction and,

Establishment of English-language advisory committee

(*a*) ten or more English-speaking ratepayers of the secondary school district apply in writing to the board for the establishment or extension in a secondary school of a class, group or program in which the English language is or is to be used in instruction; or

(*b*) the board establishes or extends or decides to establish or extend a class, group or program in which the English language is or is to be used in instruction,

the board shall establish an English-language advisory committee, and the provisions of sections 254 to 267 that apply to a committee in respect of the French-speaking ratepayers, pupils and community and in respect of French-language instructional units apply *mutatis mutandis* to an English-language advisory committee in respect of the English-speaking ratepayers, pupils and community and in respect of schools or classes in which English is the language of instruction. 1973, c. 91, s. 5, *part*.

267.—(1) A board, on the request of an English-speaking pupil of the board or, where the pupil is a minor, of his parent or guardian, may admit the pupil to a French-language instructional unit if his admission is approved by a majority vote of an admissions committee appointed by the board and composed of the principal of the school in which the French-language instructional unit is operated, a French-language teacher of such school and, subject to subsection 2, a French-speaking supervisory officer employed by the board.

Admission of pupils other than French-speaking pupils

(2) Where the board does not employ a French-speaking supervisory officer, it shall arrange for a French-speaking supervisory officer employed by another board or by the

Where board has no French-speaking supervisory officer

Minister to serve as a member of the admissions committee. 1973, c. 91, s. 5, *part*.

Languages of Instruction Commission of Ontario

Interpretation

268. In this Part,

(*a*) "Commission" means the Languages of Instruction Commission of Ontario established under this Part;

(*b*) "committee" means a French-language advisory committee or an English-language advisory committee established under section 256;

(*c*) "ratepayer" in respect of a board means a person entitled to vote at an election of members of the board. 1973, c. 92, s. 18, *part*.

Establishment of Commission

269.—(1) A commission to be known as the Languages of Instruction Commission of Ontario is hereby established and shall be composed of five members appointed by the Lieutenant Governor in Council at least two of whom shall be French-speaking and at least two of whom shall be English-speaking, and one of the members shall be appointed as chairman.

Term, reappointment and remuneration

(2) Members of the Commission shall hold office for a term of three years, may be reappointed, and shall be paid such remuneration as may be determined by the Lieutenant Governor in Council.

Vacancies

(3) Where a vacancy occurs in the membership of the Commission, the vacancy may be filled for the unexpired portion of the term of the person whose office has become vacant.

Commission is responsible to the Minister

(4) The Commission is responsible to the Minister for its operation and shall be assisted by such employees in the public service of Ontario as the Minister may assign for the purpose.

Quorum

(5) A quorum consists of three members of whom at least one shall be French-speaking and one English-speaking.

Recommendation

(6) A recommendation of the Commission requires the approval of at least a majority of the members of the Commission.

Duties of Commission

(7) The Commission shall consider matters referred to it by committees and requests for advice and assistance on questions in respect of which a committee may make recommendations,

from boards and committees, and where there is no committee, from a group of ratepayers of the board concerned determined by the Commission to be representative of the French-speaking or English-speaking minority, as the case may be, within the jurisdiction of the board.

Spokesman

(8) A group referred to in subsection 7 shall name one of its members as its spokesman.

Referral to Commission by Minister

(9) The Minister may refer to the Commission any matter relating to instruction in the French language or, where the pupils of a board who receive instruction in the English language are a minority of the pupils of a board, any matter relating to instruction in the English language.

Determination by Commission re establishment of advisory committee

(10) Where, within the area of jurisdiction of a board, there is doubt as to whether the French-speaking or English-speaking pupils are in the minority, the Commission has the power to determine whether there shall be a French-language advisory committee or an English-language advisory committee, or both, and the board shall establish such committee or committees as the Commission determines.

Investigation of irregularity

(11) Where, within thirty days of the election of a committee, the board or the committee requests the Commission to investigate an alleged irregularity respecting the election of a member of the committee, the Commission shall investigate such election and give the member an opportunity to make representation to the Commission and shall declare the member to be elected or declare his seat vacant and shall send a copy of its decision and reasons therefor to the board or committee and to the member.

Deferral of action by board

(12) When a matter is referred to the Commission, the board concerned shall defer action thereon until the matter has been resolved.

Commission shall request mediation or reject referral

(13) When a matter is referred to the Commission it shall,

(*a*) forthwith appoint one or more mediators where it considers that the furtherance of such matter may be conducive to meeting the educational and cultural needs of the French-speaking or the English-speaking community; or

(*b*) except where a matter is referred by the Minister, take no further action where it considers that the furtherance of such matter is not conducive to meeting the educational and cultural needs of the French-speaking or the English-speaking community.

Where referral rejected

(14) Where the Commission takes no further action on a referral it shall forthwith send notice in writing of its decision and of the reasons therefor to the board, the Minister and either the committee or the spokesman referred to in subsection 8.

Notice of appointment of mediator

(15) Where the Commission makes an appointment under subsection 13 it shall communicate the name and address of each mediator to,

(*a*) the Minister;

(*b*) the secretary of the board; and

(*c*) the chairman of the committee,

and where a committee has not been established by a board, to the spokesman of the group referred to in subsection 8. 1973, c. 92, s. 18, *part*, *amended*.

Remuneration

270.—(1) Mediators shall be paid such remuneration as the Lieutenant Governor in Council may determine.

Who not eligible as mediator

(2) A mediator shall not be a member of the Commission.

Duties of mediator

(3) The mediator or mediators shall, after inquiring into the matter referred for mediation and conferring with the parties involved, endeavour to bring about an agreement and shall, within twenty-one days of being appointed, report to the Commission the agreement that has been reached, or the failure to bring about agreement.

Extension of period of mediation

(4) The period referred to in subsection 3 may be extended by the Minister or by agreement of the parties to the mediation. 1973, c. 92, s. 18, *part*, *amended*.

Duties of Commission

271.—(1) Where the report of the mediator or mediators to the Commission indicates failure to bring about an agreement, the Commission shall consider and inquire into all pertinent aspects of the matter referred to mediation and shall, within twenty-one days of its receipt of the report, recommend to the board in writing a course of action that it considers appropriate to settle the matter and shall send copies of its recommendation to the Minister, the committee and the spokesman referred to in subsection 8 of section 269.

Report of board to Minister

(2) Within thirty days of its receipt of a copy of the recommendation of the Commission, the board shall report in writing to the Minister its decision in respect of the recom-

mendation of the Commission and shall forward copies of the decision to the Commission and to the committee or spokesman of the group, as the case may be. 1973, c. 92, s. 18, *part*.

PART XII

GENERAL

272. The following are repealed: Repeals

1. *The Ministry of Education Act.*	R.S.O. 1970, c. 111
2. *The Ministry of Education Amendment Act, 1971.*	1971, c. 89
3. Section 61 of *The Government Reorganization Act, 1972.*	1972, c. 1, s. 61
4. *The Ministry of Education Amendment Act, 1972.*	1972, c. 73
5. *The Ministry of Education Amendment Act, 1973.*	1973, c. 44
6. *The Public Schools Act.*	R.S.O. 1970, c. 385
7. *The Public Schools Amendment Act, 1971.*	1971, c. 69
8. Paragraph 27 of the Schedule to *The Age of Majority and Accountability Act, 1971.*	1971, c. 98, Sched., par. 27
9. *The Public Schools Amendment Act, 1972.*	1972, c. 74
10. *The Public Schools Amendment Act, 1973.*	1973, c. 37
11. *The Schools Administration Act.*	R.S.O. 1970, c. 424
12. *The Schools Administration Amendment Act, 1971.*	1971, c. [illegible]
13. Section 62 of *The Government Reorganization Act, 1972.*	1972, c. 1, s. 62
14. *The Schools Administration Amendment Act, 1972.*	1972, c. 77
15. *The Schools Administration Amendment Act, 1972 (No. 2).*	1972, c. 160
16. *The Schools Administration Amendment Act, 1973.*	1973, c. 92
17. *The Schools Administration Amendment Act, 1973 (No. 2).*	1973, c. 118

R.S.O. 1970, c. 425 — 18. *The Secondary Schools and Boards of Education Act.*

1971, c. 68 — 19. *The Secondary Schools and Boards of Education Amendment Act, 1971.*

1971, c. 98, Sched., par. 29 — 20. Paragraph 29 of the Schedule to *The Age of Majority and Accountability Act, 1971.*

1972, c. 1, s. 63 — 21. Section 63 of *The Government Reorganization Act, 1972.*

1972, c. 75 — 22. *The Secondary Schools and Boards of Education Amendment Act, 1972.*

1972, c. 136 — 23. *The Secondary Schools and Boards of Education Amendment Act, 1972 (No. 2).*

1973, c. 91 — 24. *The Secondary Schools and Boards of Education Amendment Act, 1973.*

R.S.O. 1970, c. 430 — 25. *The Separate Schools Act.*

1971, c. 70 — 26. *The Separate Schools Amendment Act, 1971.*

1971, c. 98, Sched., par. 31 — 27. Paragraph 31 of the Schedule to *The Age of Majority and Accountability Act, 1971.*

1972, c. 1, s. 64 — 28. Section 64 of *The Government Reorganization Act, 1972.*

1972, c. 76 — 29. *The Separate Schools Amendment Act, 1972.*

1972, c. 137 — 30. *The Separate Schools Amendment Act, 1972 (No. 2).*

1973, c. 117 — 31. *The Separate Schools Amendment Act, 1973.*

Commencement — **273.**—(1) This Act comes into force on a day to be named by proclamation of the Lieutenant Governor.

Idem — (2) Paragraph 43 of subsection 1 of section 147 and subsections 1, 2 and 3 of section 163 shall be deemed to have been in effect on and after the 1st day of January, 1974.

Repeal of ss. 220, 221 — (3) Sections 220 and 221 are repealed on the 1st day of January, 1975.

Short title — **274.** This Act may be cited as *The Education Act, 1974.*

The Education Act, 1974

1st Reading

May 30th, 1974

2nd Reading

3rd Reading

THE HON. T. L. WELLS
Minister of Education

(*Government Bill*)

1974

BILL 72 **Government Bill**

4TH SESSION, 29TH LEGISLATURE, ONTARIO
23 ELIZABETH II, 1974

The Education Act, 1974

THE HON. T. L. WELLS
Minister of Education

(Reprinted as amended by the Social Development Committee)

TORONTO
PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO

TABLE OF CONTENTS

Explanatory Note

The Education Act, 1974 is basically a consolidation of the provisions that are now included in *The Ministry of Education Act*, *The Public Schools Act*, *The Schools Administration Act*, *The Secondary Schools and Boards of Education Act* and *The Separate Schools Act*. Some new concepts have been introduced and are so noted under the appropriate Parts.

The material in the above Acts has been arranged according to topic; duplications and ambiguities have been removed and the terminology has been revised to conform to modern usage.

Interpretation

The terms that appear throughout the existing Acts and that have general application are all defined in this section.

Part I. Ministry of Education

This Part includes those matters that now comprise *The Ministry of Education Act*. The existing material is basically intact although some rearrangement has taken place. The provisions presently in the Act governing the calculation of fees receivable by a board for non-resident students are to be included in regulations to be made by the Minister under clause *e* of subsection 3 of section 10.

Part II. School Attendance

All provisions that relate to compulsory school attendance, school attendance counsellors and the conditions under which a person has the right to attend a public, separate or secondary school, suspension and expulsion are grouped in this Part.

The provisions of *The Public Schools Act*, *The Secondary Schools and Boards of Education Act* and *The Separate Schools Act* that apply to a child of an unassessed mother who is the sole support of her child are combined in section 41 and made to apply to either parent.

Part III. Public and Secondary Schools

The provisions of *The Public Schools Act* and *The Secondary Schools and Boards of Education Act* that pertain to the organization of public and secondary school boards and the election of members thereto are combined in this Part.

The provisions in respect of school visitors have been revised in section 49 to provide for parents and school board members to visit public and secondary schools.

Provision is made to establish and describe by regulation school divisions in that part of Ontario that is not in the territorial districts. The provisions that allow school divisions to be altered or combined are continued.

In sections 60-66, the present "isolate" public school jurisdictions in the territorial districts, comprising 27 rural school sections and 10 township school areas which are too remote to be included in larger units of administration, are established as district school areas with one simplified form of organization.

Provision is made in section 68 (5) for the payment of fees for non-resident pupils in certain hospital and treatment centre schools operated by boards established under section 68.

Part IV. Roman Catholic Separate Schools

This Part deals with the establishment of separate school zones, the organization of separate school boards and the election of trustees and contains those provisions required to retain the special identity of separate schools for Roman Catholics now found in *The Separate Schools Act*. Those matters that are essentially common to all schools such as pupil attendance, property and financial matters are placed elsewhere to avoid duplications.

The qualifications of Roman Catholic separate school trustees are brought into line with those required for members of divisional boards who are elected by separate school electors (namely, Canadian citizen, full age of 18, resident in the area of jurisdiction of the board and a separate school supporter or elector) and are contained in section 192, Part VII.

The requirement of a minimum of five heads of families in a school section or former school section for the establishment of a new separate school zone is changed in section 83 to five heads of families in a six-mile square area.

The provision respecting school visitors in section 133 is parallel to the corresponding provision for public schools.

Part V. Protestant Separate Schools

Only some minor changes in terminology consistent with corresponding changes elsewhere in the Act have been made in this Part.

Part VI. Boards

This Part deals with the powers and duties of school boards and brings together in sub-Parts the provisions relating to fringe benefits for employees, agreements with other boards and with municipalities and conservation authorities, transportation of pupils, allowances for members of a board and committees thereof, the acquiring, holding and disposal of property, the duties of officers of a board, matters affecting meetings of a board and the validity of elections.

Provision is made in section 146 to require a board to carry at least the amount of insurance on pupils carried in board owned vehicles as a private operator must carry.

Boards are authorized under section 147, par. 43, to make agreements with certain post-secondary educational institutions for the provision and use of educational and recreational facilities and under section 163 (3) to assist in the cost of transporting children to a retarded children's centre.

Part VII. Board Members—Qualifications, Resignations and Vacancies

The provisions of *The Public Schools Act*, *The Schools Administration Act*, *The Secondary Schools and Boards of Education Act* and *The Separate Schools Act* respecting the qualifications and disqualifications of board members, resignation of board members and the filling of a vacancy are grouped together in this Part.

Part VIII Finance

This Part brings together those matters that are essentially financial in nature and eliminates much of the duplication relating thereto that

existed in the former Acts. It includes matters relating to auditors, debentures, estimates, apportionment of costs, requisitions and borrowing.

Part IX. Teachers

This Part brings together matters that relate primarily to teachers including contracts, duties of teachers and principals, pupil records, and Boards of Reference. The terminology is appropriately updated but no significant changes have been made.

Part X. Supervisory Officers

This Part contains the provisions relating to supervisory officers that are now in the existing Acts with certain changes relating to the appointment, dismissal and duties of such officers.

The definition of supervisory officer has been changed to permit qualified persons other than teachers to be supervisory officers.

The chief executive officer of a separate school board is designated as director of education rather than superintendent of separate schools.

Part XI. French Language Instruction

The Part incorporates the provisions respecting French-language elementary and secondary schools, French-language advisory committees and the Language of Instruction Commission that are now contained in *The Schools Administration Act* and *The Secondary Schools and Boards of Education Act*.

Part XII. General

This Part repeals the provisions of the former Acts that are now incorporated in Parts I to XI.

BILL 72 **1974**

The Education Act, 1974

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

INTERPRETATION

1.—(1) In this Act and the regulations, except where otherwise provided in the Act or regulations, Interpretation

1. "adjoining" means touching at any point;

2. "average daily enrolment" for a calendar year means the number obtained by adding,

   i. the sum of,

      a. the product of 0.3 and the number of pupils registered for more than half-day or half-time attendance on the last school day in each of the months of January and April,

      b. the product of 0.4 and the number of pupils registered for more than half-day or half-time attendance on the last school day in September,

      c. the product of 0.15 and the number of pupils registered for half-day or half-time attendance on the last school day in each of the months of January and April,

      d. the product of 0.2 and the number of pupils registered for half-day or half-time attendance on the last school day in September,

      e. for each pupil, except a pupil referred to in subparagraph ii, who is registered

for less than half-day or half-time attendance, the product of 0.06 and the number of hours and fractions thereof of instruction for which such pupil is registered on the last school day in each of the months of January and April, and

f. for each pupil, except a pupil referred to in subparagraph ii, who is registered for less than half-day or half-time attendance, the product of 0.08 and the number of hours and fractions thereof of instruction for which such pupil is registered on the last school day in September, and

ii. the result obtained by,

a. multiplying, for each summer-school course and for each evening course established by the board, the number of pupils enrolled in the course by one-fifth of the number of hours of instruction in the course,

b. ascertaining the sum of the products obtained under sub-subparagraph a,

c. subtracting from the sum obtained under sub-subparagraph b, one-fifth of the number of hours lost as a result of late registrations or early withdrawals for any cause by all pupils enrolled in such courses, and

d. dividing the result obtained under sub-subparagraph c by the number of school days in the calendar year;

3. "board" means a board of education, public school board, secondary school board, Roman Catholic separate school board or Protestant separate school board;

4. "board of education" includes a divisional board;

5. "city" includes a separated town and the portion of a city that is in one school division;

6. "combined separate school zone" means a union of two or more separate school zones;

7. "county" includes a provisional county and united counties;

8. "county combined separate school board" means a separate school board established for a county combined separate school zone;

9. "county combined separate school zone" means a union of the separate school zones whose centres are within an area designated by the regulations that includes a county or all or part of a regional municipality that is not in a territorial district;

10. "county municipality" means a municipality that forms part of a county for municipal purposes and includes a municipality, other than a city, that forms part of a regional municipality that is not in the territorial districts;

11. "current expenditure" means an expenditure for operating purposes or a permanent improvement from funds other than those arising from the sale of a debenture, from a capital loan or from a loan pending the sale of a debenture;

12. "current revenue" means all amounts earned by a board, together with the amounts to which it becomes entitled, other than by borrowing, that may be used to meet its expenditures;

13. "debt charge" means the amount of money necessary annually,

    i. to pay the principal due on long-term debt not payable from a sinking fund,

    ii. to provide a fund for the redemption of debentures payable from a sinking fund, and

    iii. to pay the interest due on all debt referred to in subparagraphs i and ii;

14. "defined city" means,

    i. the City of Hamilton,

    ii. the City of London, and

    iii. the City of Windsor;

15. "district combined separate school board" means a separate school board established for a district combined separate school zone;

16. "district combined separate school zone" means a union of the separate school zones whose centres are within an area in the territorial districts that is designated by the regulations;

17. "district municipality" means a municipality, except a city, in a territorial district;

18. "district school area" means a school section in the territorial districts that is not a school division or a school section designated under section 68;

19. "divisional board" means a divisional board of education;

20. "elementary school" means a public school, Roman Catholic separate school or Protestant separate school;

21. "guardian" means a person who has been appointed by order of a court as the legal guardian of a child in place of a parent;

22. "head office" of a board means the place at which the minute book, financial statements and records, and seal of the board are ordinarily kept;

23. "intermediate division" means the division of the organization of a school comprising the first four years of the program of studies immediately following the junior division;

24. "judge" means the judge of the county or district court of the county or district in which the head office of the board is situate;

25. "junior division" means the division of the organization of an elementary school comprising the first three years of the program of studies immediately following the primary division;

26. "locality" means a part of territory without municipal organization that is deemed to be a district municipality for the purposes of a divisional board or of a district combined separate school board;

27. "Minister" means the Minister of Education;

28. "Ministry" means the Ministry of Education;

29. "municipality" means a city, town, village, township or improvement district;

30. "occasional teacher" means a teacher employed to teach as a substitute for a permanent, probationary or temporary teacher who has died during the school year or who is absent from his regular duties for a temporary period that is less than a school year and that does not extend beyond the end of a school year;

31. "parcel of land" means a parcel of land that by *The Assessment Act* is required to be separately assessed; R.S.O. 1970, c. 32

32. "part-time teacher" means a teacher employed by a board on a regular basis for other than full-time duty;

33. "permanent improvement" includes,

i. a school site and an addition or an improvement to a school site,

ii. a building used for instructional purposes and any addition, alteration or improvement thereto,

iii. an administration office, a residence for teachers or caretakers and a storage building for equipment and supplies, and any addition, alteration or improvement thereto,

iv. furniture, furnishings, library books, instructional equipment and apparatus, and equipment required for maintenance of the property,

v. a bus or other vehicle, including watercraft, for the transportation of pupils,

vi. the obtaining of a water supply or an electrical power supply on the school property or the conveying of a water supply or an electrical power supply to the school from outside the school property,

vii. initial payments or contributions for past service pensions to a pension plan for officers and other employees of the board;

34. "permanent teacher" means a teacher employed by a board under a permanent teacher's contract made in accordance with the regulations and includes a teacher whose contract is deemed to include the terms and conditions contained in the form of contract prescribed in the regulations for a permanent teacher;

1972, c. 95

35. "polling list" means a polling list as defined in *The Municipal Elections Act, 1972*;

36. "population" means the population as determined by the latest census taken under section 23 or 23*a* of *The Assessment Act*;

R.S.O. 1970, c. 32

37. "prescribed" means prescribed by the regulations;

38. "primary division" means the division of the organization of an elementary school comprising junior kindergarten, kindergarten and the first three years of the program of studies immediately following kindergarten;

39. "principal" means a teacher appointed by a board to perform in respect of a school the duties of a principal under this Act and the regulations;

40. "private school" means an institution at which instruction is provided at any time between the hours of 9 a.m. and 4 p.m. on any school day for five or more pupils who are of or over compulsory school age in any of the subjects of the elementary or secondary school courses of study and that is not a school as defined in this section;

41. "probationary teacher" means a teacher employed by a board under a probationary teacher's contract made in accordance with the regulations;

42. "provincial supervisory officer" means a supervisory officer employed by the Minister;

43. "public school elector", in respect of an area for which one or more members of a board are to be elected by public school electors, means a public school elector under *The Municipal Elections Act, 1972*, who is qualified to vote at the election for such members in such area;

44. "regulations" means the regulations made under this Act;

45. "reserve fund" means a reserve fund established under section 308 of *The Municipal Act*; R.S.O. 1970, c. 284

46. "Roman Catholic" includes a Catholic of the Greek or Ukrainian Rite in union with the See of Rome;

47. "rural separate school" means a separate school for Roman Catholics in a township or territory without municipal organization that is not part of a county or district combined separate school zone;

48. "rural separate school zone" means a separate school zone in respect of a rural separate school;

49. "school" means,

    i. the body of public school pupils or separate school pupils or secondary school pupils that is organized as a unit for educational purposes under the jurisdiction of the appropriate board, or

    ii. the body of pupils enrolled in any of the elementary or secondary school courses of study in an educational institution operated by the Government of Ontario,

    and includes the teachers and other staff members associated with such unit or institution and the lands and premises used in connection therewith;

50. "school day" means a day that is within a school year and is not a school holiday;

51. "school division" means the area in which a divisional board has jurisdiction;

52. "school section" means the area in which a public school board or board of education has jurisdiction for public school purposes;

53. "school site" means land or interest therein or premises required by a board for a school, school playground, school garden, teacher's residence, caretaker's residence, gymnasium, offices, parking areas or for any other school purpose;

54. "school year" means the period prescribed as such by, or approved as such under, the regulations;

55. "secondary school" means a school that is under the jurisdiction of a secondary school board;

56. "secondary school district" means the area in which a secondary school board or a board of education has jurisdiction for secondary school purposes;

57. "secretary" and "treasurer" includes a secretary-treasurer;

58. "senior division" means the division of the organization of a secondary school comprising the three years of the program of studies following the intermediate division;

59. "separated town" means a town separated for municipal purposes from the county in which it is situated;

60. "separate school elector", in respect of an area for which one or more members of a board are to be elected by separate school electors, means a separate school elector under *The Municipal Elections Act, 1972*, who is qualified to vote at the election of such members in such area;

1972, c. 95

61. "separate school supporter" means a Roman Catholic ratepayer,

i. in respect of whom notice of school support has been given in accordance with section 116 and notice of withdrawal of support has not been given under section 117, or

ii. who has directed education taxes to the support of separate schools by confirming or revising an enumeration notice in accordance with section 23 of *The Assessment Act* and the regulations made thereunder,

R.S.O. 1970, c. 32

and includes the Roman Catholic spouse of such ratepayer;

62. "separate school zone" means the area in which property may be assessed to support a separate school or schools for Roman Catholics under the jurisdiction of one separate school board;

63. "supervisory officer" means a person who is qualified in accordance with the regulations governing supervisory officers and who is employed,

i. by a board, or

ii. in the Ministry and designated by the Minister,

to perform such supervisory and administrative duties as are required of supervisory officers by this Act and the regulations;

64. "teacher" means a person who holds a valid certificate of qualification as a teacher in an elementary or a secondary school in Ontario;

65. "temporary teacher" means a person employed to teach under the authority of a letter of permission;

66. "trainable retarded child" means a child whose intellectual functioning is below the level at which he could profit from a special education program for educable retarded children;

67. "urban municipality" means a city, town or village;

68. "urban school section" means a school section, except a school division or a district school area, that includes a municipality;

69. "urban separate school" means a separate school for Roman Catholics in an urban municipality;

70. "urban separate school zone" means a separate school zone established in an urban municipality that does not form part of a county or district combined separate school zone;

71. "vocational school" includes a special vocational school. R.S.O. 1970, c. 111, s. 1 (*d*); R.S.O. 1970, c. 424, s. 1; R.S.O. 1970, c. 425, s. 27 (1); R.S.O. 1970, c. 430, ss. 17, 80 (1); 1971, c. 90, s. 1 (1); 1972, c. 1, s. 62; 1972, c. 73, s. 1; 1972, c. 75, s. 6 (1, 2); 1972, c. 77, s. 1 (1, 3, 4); 1973, c. 92, s. 1, *amended*.

Authority or obligation of parent vested in pupil of 18 years of age

(2) Where by or under this Act any authority or right is vested in, or any obligation is imposed upon, or any reimbursement may be made to, a parent or guardian of a pupil, such authority, right, obligation or reimbursement shall, where the pupil is an adult, be vested in or imposed upon or made to the pupil, as the case may be. 1972, c. 77, s. 1 (6).

Existing school arrangements continued

(3) Until altered under the authority of this or any other Act, all school jurisdictions and boards continue as they now exist and all members of boards duly elected and all officers duly appointed continue in office, and all agreements, contracts, obligations, assessments and tax bills heretofore duly made in relation to elementary and secondary schools and existing when this Act takes effect continue subject to the provisions of this Act. R.S.O. 1970, c. 385, s. 3.

Questions re proceedings as to formation of school section

(4) Where any question arises touching the validity of any proceeding with respect to the formation, alteration or dissolution of a school section or touching any by-law with respect to any of such matters, the question shall be raised, heard and determined upon a summary application to the judge,

and no proceeding or by-law with respect to the formation, alteration or dissolution of a school section is invalid or shall be set aside because of failure to comply with the provisions of any Act applicable to the proceeding or by-law, unless, in the opinion of the judge before which the proceeding or by-law is called in question, the proceeding or by-law, if allowed to stand, would cause substantial injustice to be done to any person affected thereby. R.S.O. 1970, c. 385, s. 52, *amended*.

Amendment of references
R.S.O. 1970, cc. 111, 385, 424, 425, 430
1974, c. ...

(5) A reference in any Act or regulation to *The Department of Education Act*, *The Ministry of Education Act*, *The Public Schools Act*, *The Schools Administration Act*, *The Secondary Schools and Boards of Education Act* or *The Separate Schools Act* shall be deemed to be a reference to *The Education Act, 1974*.

Effect on separate schools

(6) The consolidation in this Act of the Acts referred to in section 272 shall not adversely affect any right or privilege respecting separate schools enjoyed by separate school boards or their supporters under the Acts repealed by this Act as they existed immediately prior to the coming into force of this Act. *New*.

PART I

MINISTRY OF EDUCATION

Ministry continued

2.—(1) The ministry of the public service known as the Ministry of Education is continued.

Minister to have charge

(2) The Minister shall preside over and have charge of the Ministry. R.S.O. 1970, c. 111, s. 2; 1972, c. 1, s. 61 (3).

Administration

(3) The Minister is responsible for the administration of this Act and the regulations and of such other Acts and the regulations thereunder as may be assigned to him by the Lieutenant Governor in Council. R.S.O. 1970, c. 111, s. 3.

Annual report

3. The Minister shall, after the close of each fiscal year, submit to the Lieutenant Governor in Council a report upon the affairs of the Ministry for the immediately preceding fiscal year and shall then lay the report before the Assembly if it is in session or, if not, at the next ensuing session. 1972, c. 1, s. 61 (4), *amended*.

Additions to enrolment in special cases

4. The Minister may, in respect of a school, require to be included in the enrolment on any date the number of pupils who were absent from school because of any condition considered by the Minister to constitute a special circumstance or an emergency. 1973, c. 44, s. 2, *amended*.

5.—(1) Subject to the approval of the Lieutenant Governor in Council, the Minister may order the closing of a school or any class thereof for a specified period. R.S.O. 1970, c. 111, s. 6 (1). Closing of school or class

(2) Where a school or class is closed for a specified period under subsection 1, the pupils in such school or class shall for all purposes, including the calculation of general legislative grants and fees, be deemed to be in attendance. 1971, c. 89, s. 2. Pupils deemed in attendance

6.—(1) The Lieutenant Governor in Council may authorize the Treasurer of Ontario to guarantee payment by the Province of any debentures issued by a board in Ontario for any school purpose for which the board is authorized to issue debentures. Guarantee of debentures

(2) The form of the guarantee and the manner of its execution shall be determined by the Lieutenant Governor in Council, and every guarantee given or purporting to be given under this section is binding upon the Province and is not open to question upon any ground whatsoever. Form of guarantee

(3) Any debenture issued by a board, payment of which is guaranteed by the Province under this section, is valid and binding upon the board by which it is issued and the ratepayers thereof, according to its terms, and the validity of any debenture so guaranteed is not open to question upon any ground whatsoever. R.S.O. 1970, c. 111, s. 7. Validity of guaranteed debentures

7. Notwithstanding anything in any Act fixing the rate of interest to be paid or credited to any board by the Treasurer of Ontario upon school securities, sinking funds or debentures deposited with or in the hands of the Treasurer of Ontario either as an investment by the Province or for investment on behalf of a board, the rate at which interest shall be allowed to, paid by or credited to a board upon any such securities, sinking funds or debentures heretofore or hereafter deposited with or purchased by the Treasurer of Ontario shall be the current rate of interest as fixed from time to time by the Lieutenant Governor in Council, to be based upon the average rate of interest actually payable upon the moneys borrowed on behalf of Ontario as a provincial loan and then outstanding. R.S.O. 1970, c. 111, s. 8. Fixing rate of interest on debentures, etc., held by Treasurer

8.—(1) The Minister may, Powers of Minister:

(*a*) name the diplomas and certificates that are to be granted to pupils and prescribe their form and the conditions under which they are to be granted; diplomas and certificates

(*b*) prescribe the courses of study that shall be taught and the courses of study that may be taught in the primary, junior, intermediate and senior divisions; courses of study

courses and areas of study

(*c*) in respect of schools under the jurisdiction of a board,

(i) issue curriculum guidelines and require that courses of study be developed therefrom and establish procedures for the approval of courses of study that are not developed from such curriculum guidelines,

(ii) prescribe areas of study and require that courses of study be grouped thereunder and establish procedures for the approval of alternative areas of study under which courses of study shall be grouped, and

(iii) approve or permit boards to approve,

a. courses of study that are not developed from such curriculum guidelines, and

b. alternative areas of study under which courses of study shall be grouped,

and authorize such courses of study and areas of study to be used in lieu of or in addition to any prescribed course of study or area of study;

procedures

(*d*) establish procedures by which and the conditions under which books and other learning materials are selected and approved by the Minister;

textbooks, reference books, etc.

(*e*) select and approve for use in schools textbooks, library books, reference books and other learning materials;

publication of book lists

(*f*) cause to be published from time to time lists of textbooks, reference books and library books, selected and approved by the Minister for use in elementary and secondary schools;

daily register

(*g*) prescribe the form of the register of attendance and the manner of its use in recording the daily attendance of pupils of schools, or approve the use of an alternate method of recording such daily attendance, and prescribe the form in which enrolment and attendance data shall be submitted to the Minister;

letter of standing

(*h*) grant a letter of standing to a person who is a qualified teacher in a jurisdiction outside Ontario and who holds academic and professional qualifications equivalent to those required in Ontario at the time of the issuing of the letter of standing;

letter of permission

(*i*) grant a letter of permission to a board authorizing the board to employ as a teacher a person not

qualified as such if the Minister is satisfied that no teacher is available, but a letter of permission shall be effective only for the period, not exceeding one year, that the Minister may specify therein;

(*j*) grant a temporary letter of approval to a board authorizing the board to appoint or assign, for a period not exceeding one year, a teacher to teach a subject or hold a position where the teacher does not hold the certificate required for teaching the subject; letter of approval

(*k*) withdraw any letter of permission or temporary letter of approval granted under this Act; withdraw letter

(*l*) suspend or cancel and reinstate any interim, temporary, permanent, special or other certificate of qualification or letter of standing; suspend or cancel

(*m*) accept in lieu of any requirement prescribed for a teacher, head of a department, principal, director, supervisor or supervisory officer, or for a candidate for a certificate or for admission to a school, such experience, academic scholarship or professional training as he considers equivalent thereto, and may require such evidence thereof as he considers necessary; accept equivalent qualification

(*n*) require employees of school boards to submit to medical examinations; medical examinations

(*o*) provide or approve and review courses for teachers, principals and supervisory officers; courses

(*p*) provide for the development, distribution and supervision by the Ministry of correspondence courses; correspondence courses

(*q*) provide for, and prescribe the conditions of, the granting of scholarships and awards to pupils; scholarships

(*r*) in respect of teachers' colleges, teachers' colleges

(i) define courses of study and subjects to be taught,

(ii) recommend reference books and library books,

(iii) approve textbooks,

(iv) determine the number of terms and the dates upon which each term begins and ends, and

(v) grant Bachelor of Education degrees;

(*s*) in respect of schools for the deaf and the blind, determine the number of terms and the dates upon which each term begins and ends; provincial schools

apportion federal grants

(*t*) apportion and pay all sums received for educational purposes from the Government of Canada or any source other than an appropriation by the Legislature, in accordance with the terms of the grant, if any, and otherwise in any manner he considers proper;

educational advancement programs, activities and projects and accountable advances

(*u*) make payments out of funds appropriated therefor by the Legislature to a board, an individual, a voluntary association or a corporation without share capital having objects of a charitable or educational nature,

(i) to assist or advance programs, activities or projects for students that involve a cultural and educational exchange with other provinces and countries, provincial or interprovincial travel, school twinning and related assistance, leadership training, or summer employment, and

(ii) to foster and promote educational advancement by means of programs, activities or projects that are provided for visiting educational officials, designed to further the professional development of teachers and supervisory officers including exchange of such personnel, or considered by the Minister to be valuable in advancing a particular area of study,

and, subject to the terms and conditions that are approved for such purpose by the Lieutenant Governor in Council, make an accountable advance to the recipient of a payment under this clause or to an individual, not being a member of the public service, who conducts or assists in conducting or participates in any such program, activity or project. R.S.O. 1970, c. 111, s. 10 (1); 1972, c. 73, s. 3; 1973, c. 44, s. 3, *amended*.

Application R.S.O. 1970, c. 410

(2) An act of the Minister under this section is not a regulation within the meaning of *The Regulations Act*. R.S.O. 1970, c. 111, ss. 9, 12 (1), pars. 19, 20; 1972, c. 73, s. 2. *amended*.

Powers of Minister:

9. The Minister may,

advisory body

(*a*) appoint such advisory or consultative bodies as may be considered necessary by the Minister from time to time;

commission of inquiry

(*b*) appoint as a commission one or more persons, as he considers expedient, to inquire into and report

upon any school matter, and such commission has the powers of a commission under Part II of *The Public Inquiries Act, 1971*, which Part applies to such inquiry as if it were an inquiry under that Act; 1971, c. 49

(*c*) submit a case on any question arising under this Act to a judge of the Supreme Court for his opinion and decision or, by leave of a judge of the Supreme Court, to the Court of Appeal for its opinion and decision. R.S.O. 1970, c. 111, s. 10 (1); 1972, c. 73, s. 3, *amended*. secure legal opinion

10.—(1) Subject to the approval of the Lieutenant Governor in Council, the Minister may make regulations in respect of schools or classes established under this Act, or any predecessor of this Act, and with respect to all other schools supported in whole or in part by public money, Regulations

1. for the establishment, organization, administration and government thereof; general

2. governing the admission of pupils; admit pupils

3. prescribing the manner in which records in respect of pupils of elementary and secondary schools shall be established and maintained, including the forms to be used therefor and the type of information that shall be kept and recorded, and providing for the retention, transfer and disposal of such records; pupil records

4. providing for the disposition of records established prior to the 1st day of September, 1972, in respect of pupils; disposition of present pupil records

5. governing the establishment, organization and administration of special education programs, facilities and services for pupils; special education

6. defining and governing evening classes; evening classes

7. requiring boards to purchase books for the use of pupils; purchase books

8. prescribing the accommodation and equipment of buildings and the arrangement of premises; accommodation and equipment

9. defining and governing programs of recreation, camping, physical education and adult education; recreation programs

certificates and letters of standing

10. governing the granting, suspending and cancelling of permanent, temporary, interim, special and other certificates of qualification, and letters of standing;

letter of permission

11. governing the granting to a board of a letter of permission and a temporary letter of approval and providing for the withdrawal of such letters;

teacher's contract

12. prescribing the form of contract that shall be used for every contract entered into between a board and a permanent teacher or a probationary teacher for the services of the teacher, and prescribing in the form of contract the terms and conditions of the contract;

schools on Crown lands

13. governing the establishment and operation of public and secondary schools on lands held by the Crown in right of Canada or Ontario or by an agency thereof, or on other lands that are exempt from taxation for school purposes, and providing for the payment of moneys to assist in the cost of establishment and maintenance of such schools;

pupils on Crown lands, wards of children's aid society and in approved homes, etc.

14. governing the payment of the cost of education at elementary and secondary schools of pupils who,

i. reside in the territorial districts, or on lands held by the Crown in right of Canada or Ontario or by an agency thereof, or on other lands that are exempt from taxation for school purposes,

ii. are wards of or in the care of a children's aid society, or

R.S.O. 1970, cc. 270, 369

iii. are placed in an approved home as defined in *The Mental Hospitals Act* or a detention and observation home established under *The Provincial Courts Act*;

board, lodging and transportation of pupils

15. providing for assistance in the payment of board, lodging and transportation costs of elementary and secondary school pupils;

fees of examiners

16. prescribing the fees to be paid to presiding officers and examiners in connection with examinations and by whom and in what manner such fees and other expenses in connection with such examinations shall be borne and paid;

17. governing the provision of religious exercises and religious education in public and secondary schools and providing for the exemption of pupils from participating in such exercises and education and of a teacher from teaching, and a public school board or a secondary school board from providing, religious education in any school or class; — religious exercises and education

18. prescribing the language or languages in which any subject or subjects shall be taught in any year of the primary, junior, intermediate or senior division; — language of instruction

19. providing for and governing the exchange of teachers between Ontario and other parts of Canada and between Ontario and other jurisdictions; — exchange teachers

20. governing school libraries; — school libraries

21. listing the textbooks that are selected and approved by the Minister for use in schools; — textbooks

22. respecting observation and practice teaching by student teachers; — practice teaching

23. prescribing the powers, duties and qualifications, and governing the appointment of, teachers, supervisors, directors, supervisory officers, heads of departments, principals, superintendents, bursars, matrons, school attendance counsellors and other officials; — powers and duties of teachers, etc.

24. prescribing the duties of pupils; — pupils

25. governing the operation of schools for trainable retarded children; — schools for trainable retarded children

26. prescribing the qualifications and experience required for the purpose of qualifying a person to teach; — qualification to teach

27. prescribing forms and providing for their use; — forms

28. governing the transportation of pupils; — transportation

29. regulating the practice and procedure to be followed at any hearing provided for by or under this Act; — practice and procedure

30. governing the assignment by a board of duties to directors of education and other supervisory officers and prescribing the procedures in respect thereof, and defining any word or expression used in such regulation; — duties of supervisory officers

suspension or dismissal of supervisory officers

31. prescribing the practices and procedures to be followed by a board in the case of suspension or dismissal of a director of education or other supervisory officer. R.S.O. 1970, c. 111, s. 12 (1); 1971, c. 89, s. 3 (1, 2); 1972, c. 73, s. 4 (1-3), *amended*.

Student-Aid loan contracts

(2) Every contract executed by a person under twenty-one years of age that provides for the repayment of a loan made to such person out of the Provincial Student-Aid Loan Fund is binding upon such person and enforceable against him in the same manner and to the same extent as if he were over twenty-one years of age at the time he executed the contract. R.S.O. 1970, c. 111, s. 12 (2).

Regulations, grants

(3) Subject to the approval of the Lieutenant Governor in Council, the Minister may make regulations,

(*a*) providing for the apportionment and distribution of moneys appropriated or raised by the Legislature for educational purposes;

(*b*) prescribing the conditions governing the payment of legislative grants;

(*c*) for the purposes of legislative grants,

(i) defining any word or expression,

(ii) requiring the approval of the Minister to any amount of money or rate determined by the application of any word or expression defined,

(iii) prescribing the portions of any expenditure to which such grants apply, and

(iv) respecting the application of any part of such grants; R.S.O. 1970, c. 111, s. 12 (3) (*a-c*); 1972, c. 73, s. 4 (4), *amended*.

(*d*) providing an assessment equalization factor,

(i) for each municipality, including, for public and secondary school purposes, any part of territory without municipal organization that is deemed to be attached thereto for such purposes and, for public school purposes, any part of territory without municipal organization that is deemed to be annexed thereto for public school purposes,

(ii) for each part of territory without municipal organization that is deemed to be a district municipality for the purposes of Part III,

(iii) for each part of territory without municipal organization that is deemed to be a district municipality for the purposes of Part IV,

(iv) for each public school section that comprises only territory without municipal organization, and

(v) for each separate school zone that comprises only territory without municipal organization,

and may determine the assessment roll to which each such factor applies;

(*e*) prescribing the method of calculating the amount of the fee receivable by a board in respect of elementary or secondary school pupils or any class or group thereof, where the board provides education for one or more pupils in respect of whom a fee is payable under this Act, and defining any word or expression used in such regulation. *New*.

Application to previous year

(4) A regulation made in any year under subsection 3 may be made to apply in its operation to that year, to a previous year, or to both. 1972, c. 73, s. 4 (5), *amended*.

Estimates and expenditures

(5) Subject to the approval of the Lieutenant Governor in Council and to section 131, the Minister may make regulations governing estimates that a board is required to prepare and adopt and expenditures that may be made by a board for any purpose. R.S.O. 1970, c. 111, s. 12 (3) (*d*).

School year, terms and holidays

(6) Subject to the approval of the Lieutenant Governor in Council, the Minister may make regulations,

(*a*) prescribing and governing the school year, school terms and school holidays;

(*b*) authorizing a board to vary one or more school terms or school holidays as designated by the regulations; and

(*c*) permitting a board to designate, and to implement with the prior approval of the Minister, a school year, school terms and school holidays for one or more schools under its jurisdiction that are different from those prescribed by the regulations.

Exceptions: compulsory attendance

(7) Subject to the approval of the Lieutenant Governor in Council, the Minister may make regulations prescribing the conditions under which, and establishing the procedures by which, a child who is otherwise required to attend school under Part II and who has attained the age of fourteen years may be excused from attendance at school or required to attend school only part-time. *New*.

Regulations

(8) Subject to the approval of the Lieutenant Governor in Council, the Minister may make regulations,

fee for transcripts

(*a*) prescribing the fee to be paid to the Ministry for a transcript of standing obtained in Ontario by a pupil;

fee for certificates and letters of standing

(*b*) prescribing the fee to be paid to the Ministry for duplicates of certificates of qualification and letters of standing;

fee for statement of standing

(*c*) prescribing the fee to be paid to the Ministry by a teacher for the preparation at his request of a statement of standing obtained, or a description of courses completed, at a teacher education institution in Ontario, and the forwarding thereof to a certification authority outside Ontario or to an educational institution;

fees for evaluations

(*d*) prescribing the conditions under which fees are to be paid to the Ministry for the evaluation of academic certificates, transcripts and other documents of educational standing obtained outside Ontario, and the amounts of such fees;

fees for duplicates of certificates

(*e*) prescribing the fees to be paid for duplicates of diplomas and certificates granted to pupils;

fees for courses

(*f*) prescribing the fees to be paid for courses provided by the Ministry for teachers, principals and supervisory officers;

admission to teachers' college

(*g*) prescribing the terms and conditions upon which students may be admitted to a teachers' college, remain therein and be dismissed therefrom;

tuition fee teachers' college

(*h*) requiring the payment of a tuition fee by students attending a teachers' college and fixing the amount and manner of payment thereof. 1972, c. 73, s. 4 (3); 1973, c. 44, s. 4 (1), *amended*.

Metropolitan Toronto School Board

(9) A regulation made under this section may be made to apply to The Metropolitan Toronto School Board. 1972, c. 73, s. 4 (6).

Agreements with Canada re: physical fitness

11.—(1) The Crown in right of Ontario, represented by the Minister, with the approval of the Lieutenant Governor in Council, may make agreements with the Crown in right of Canada, represented by the Minister of National Health and Welfare of Canada respecting physical fitness, and the Minister may authorize a board to provide training in physical fitness.

pupils at Indian schools

R.S.C. 1970, c. I-6

(2) The Crown in right of Ontario, represented by the Minister, may make agreements with the Crown in right of Canada, represented by the Minister charged with the administration of the *Indian Act* (Canada), for the admission of pupils, other than Indians as defined in that Act, to schools for Indians operated under that Act.

(3) The Crown in right of Ontario, represented by the Minister, may make agreements with the Crown in right of Canada, represented by the Minister of Manpower and Immigration, respecting the establishment, awarding and payment of bursaries and scholarships to students eligible therefor under the regulations. R.S.O. 1970, c. 111, s. 13, *amended*. bursaries and scholarships

12.—(1) The Ontario School for the Deaf for the education and instruction of the deaf and partially deaf is continued under the administration of the Minister. Continuation of school for deaf

(2) The Ontario School for the Blind for the education and instruction of the blind and partially blind is continued under the administration of the Minister. School for blind

(3) Subject to the approval of the Lieutenant Governor in Council, the Minister may establish, maintain and operate one or more additional schools for the deaf or schools for the blind. Additional schools

(4) Subject to the approval of the Lieutenant Governor in Council, the Minister may, in addition to his powers under section 10, make regulations with respect to such schools for the deaf or blind, Regulations for schools for the deaf or blind

(*a*) prescribing the terms and conditions upon which pupils may,

(i) be admitted to, and remain in, a school,

(ii) reside in homes approved by a superintendent, and

(iii) be discharged from a school;

(*b*) authorizing the Minister to appoint a committee to determine any question concerning the eligibility for admission of an applicant;

(*c*) prescribing the fees, if any, that shall be paid in respect of pupils of any class or classes thereof;

(*d*) authorizing the payment of part or all of the transportation costs of pupils whose parents or guardians reside in Ontario, and fixing the maximum amount that may be paid;

(*e*) authorizing a superintendent to establish rules in respect of pupils admitted to the school;

(*f*) authorizing a superintendent to specify the type and minimum amount of clothing that a parent or guardian shall provide for a pupil;

(*g*) requiring a parent or guardian to deposit a sum of money with the bursar of a school for the purpose

of defraying the personal incidental expenses of a pupil, and fixing the amount of the deposit;

(*h*) authorizing a superintendent to dismiss a pupil and prescribing procedures in respect thereof;

(*i*) authorizing the Minister to provide training for, and certification of, teachers of the deaf and of the blind;

(*j*) designating the name of each school continued or established under this section.

Cost

(5) The cost of the establishment, maintenance and conduct of the said schools shall be payable out of moneys appropriated therefor by the Legislature. R.S.O. 1970, c. 111, s. 12, *amended*.

Teacher education

13.—(1) Subject to the approval of the Lieutenant Governor in Council, the Minister may,

(*a*) establish, maintain and conduct a college for the professional education of teachers;

(*b*) enter into an agreement with a university, a college of a university or a college to provide for the professional education of teachers by the university or college, under such terms and conditions as the Minister and the university or college may agree upon.

Practice teaching

(2) Where the Minister conducts a teacher education program, a board that operates a public, separate or secondary school shall permit its schools to be used for observation and practice teaching purposes and shall provide for the services of any of its teachers in accordance with a schedule of payments to boards that provide accommodation for practice teaching purposes and to their principals and teachers who participate therein, and such schedule shall be approved by the Lieutenant Governor in Council.

Idem

(3) Where a teacher education program is conducted pursuant to an agreement under clause *b* of subsection 1, a board that operates a public, separate or secondary school shall permit its schools to be used for observation and practice teaching purposes and shall provide for the services of any of its teachers under such terms and conditions as may be agreed upon between the board and the institution conducting the program and failing agreement in accordance with the schedule of payments to boards, principals and teachers referred to in subsection 2.

Cost of teacher education

(4) The cost of the establishment, maintenance and conduct of a college referred to in clause *a* of subsection 1 shall be payable out of moneys appropriated therefor by the Legislature.

(5) The cost of providing the professional education of teachers by a university, a college of a university or a college under an agreement referred to in clause *b* of subsection 1 shall be payable out of moneys appropriated therefor by the Legislature. 1972, c. 73, s. 6, *amended*. Idem

14.—(1) The Minister may establish, maintain and conduct camps for leadership training. Leadership training camps

(2) The cost of the establishment, maintenance and conduct of leadership training camps shall be payable out of moneys appropriated therefor by the Legislature. R.S.O. 1970, c. 111, s. 19. Expenses

15.—(1) No private school shall be operated in Ontario unless notice of intention to operate the private school has been submitted in accordance with this section. Intention to operate private school

(2) Every private school shall submit annually to the Ministry on or before the 1st day of September a notice of intention to operate a private school. Idem

(3) A notice of intention to operate a private school shall be in such form and shall include such particulars as the Minister may require. Idem

(4) Every person concerned in the management of a private school that is operated in contravention of subsection 1 is guilty of an offence and on summary conviction is liable to a fine of not more than $25 for every day such school is so operated. Offence to operate private school without filing notice of intent to operate

(5) The principal, headmaster or person in charge of a private school shall make a return to the Ministry furnishing such statistical information regarding enrolment, staff, courses of study and other information as and when required by the Minister, and any such person who fails to make such return within sixty days of the request of the Minister is guilty of an offence and on summary conviction is liable to a fine of not more than $100. Return

(6) The Minister may direct one or more supervisory officers to inspect a private school, in which case each such supervisory officer may enter the school at all reasonable hours and conduct an inspection of the school and any records or documents relating thereto, and every person who prevents or obstructs or attempts to prevent or obstruct any such entry or inspection is guilty of an offence and on summary conviction is liable to a fine of not more than $200. R.S.O. 1970, c. 111, s. 20 (1-6). Inspection of school

Inspection on request

(7) The Minister may, on the request of any person operating a private school, provide for inspection of the school in respect of the standard of instruction in the subjects leading to the secondary school graduation diploma and to the secondary school honour graduation diploma, and may determine and charge a fee for such inspection. 1972, c. 73, s. 7, *amended*.

Inspection of teachers

(8) The Minister may, on the request of a person operating a private school or of a person in charge of a conservation authority school or field centre, provide for the inspection of a teacher in such school or centre who requires the recommendation of a supervisory officer for certification purposes. *New*.

Offence for false statement

(9) Every person who knowingly makes a false statement in a notice of intention to operate a private school or an information return under this section is guilty of an offence and on summary conviction is liable to a fine of not more than $200. R.S.O. 1970, c. 111, s. 20 (8).

Variation of scholarships and awards

R.S.O. 1970, c. 166

16.—(1) Where the educational object of a gift or bequest accepted by the Treasurer of Ontario under section 15 of *The Financial Administration Act* is the establishment of a scholarship or an award that is available to one or more students in an elementary or a secondary school or a teacher training institution and,

(*a*) the selection of the recipient of the scholarship or award is based upon an examination which is no longer given;

(*b*) the school or teachers' college at which attendance is required for eligibility is no longer operated;

(*c*) reference to a county or a board in the terms and conditions of the gift or bequest is no longer appropriate by reason of the establishment of a regional municipality or a divisional board of education; or

(*d*) the course or program of instruction specified in the terms and condition is no longer available, or is no longer available at the school or teachers' college,

the Lieutenant Governor in Council on the recommendation of the Minister may, from time to time, vary the terms and conditions of the gift or bequest in respect of the qualifications for eligibility for the scholarship or award so as to ensure that such scholarship or award will be granted or given under such terms and conditions as in the opinion of the Minister

most nearly approximate those of the original gift or bequest, and the Minister may delegate his powers under the original terms and conditions of such gift or bequest to a representative of the board, or the educational institution, granting the scholarship or making the award, pursuant to any variation in the terms and conditions of the gift or bequest made under this section.

Where award is repayable loan

(2) In the case of an award in the form of a repayable loan for which no person has made application for seven consecutive years, the Lieutenant Governor in Council, on the recommendation of the Minister and with the written consent of the person making the gift or the trustee of the person making the bequest, may capitalize the fund and any interest accrued thereon held by the Treasurer of Ontario, and may change the educational object of the gift or bequest to another object of an educational nature, in which case the provisions of subsection 1 shall apply *mutatis mutandis*. 1971, c. 89, s. 5.

PART II

SCHOOL ATTENDANCE

Interpretation

17. In sections 20, 22, 25, 27 and 29, "guardian", in addition to having the meaning ascribed in law, includes any person who has received into his home another person's child who is of compulsory school age and is resident with him or in his care or legal custody. R.S.O. 1970, c. 424, s. 2.

Closing of school or class by board

18. A board may close or authorize the closing of a school or class for a temporary period where such closing appears unavoidable because of,

(*a*) failure of transportation arrangements; or

(*b*) inclement weather, fire, flood, the breakdown of the school heating plant, the failure of an essential utility or a similar emergency. 1973, c. 92, s. 3, *amended*.

Closing of schools on civic holiday

19. Where the head of the council of a municipality in which a school is situate proclaims a school day as a civic holiday for the municipality, the board may, by resolution, close any of the schools under its jurisdiction on such day. 1972, c. 77, s. 2 (3).

Compulsory attendance

20.—(1) Unless excused under this section,

(*a*) every child who attains the age of six years on or before the first school day in September in any year shall attend an elementary or secondary school on

every school day from the first school day in September in that year until he attains the age of sixteen years; and

(*b*) every child who attains the age of six years after the first school day in September in any year shall attend an elementary or secondary school on every school day from the first school day in September in the next succeeding year until the last school day in June in the year in which he attains the age of sixteen years. R.S.O. 1970, c. 424, s. 6 (1).

When attendance excused

(2) A child is excused from attendance at school if,

(*a*) he is receiving satisfactory instruction at home or elsewhere;

(*b*) he is unable to attend school by reason of sickness or other unavoidable cause;

(*c*) transportation is not provided by a board for the child and there is no school that he has a right to attend situated,

(i) within one mile from his residence measured by the nearest road if he has not attained the age of seven years on or before the first school day in September in the year in question, or

(ii) within two miles from his residence measured by the nearest road if he has attained the age of seven years but not the age of ten years on or before the first school day in September in the year in question, or

(iii) within three miles from his residence measured by the nearest road if he has attained the age of ten years on or before the first school day in September in the year in question;

(*d*) he has obtained a secondary school graduation diploma or has completed a course that gives him equivalent standing;

(*e*) he is absent from school for the purpose of receiving instruction in music and the period of absence does not exceed one-half day in any week;

(*f*) he is suspended, expelled or excluded from attendance at school under any Act or under the regulations;

(*g*) he is absent on a day regarded as a holy day by the church or religious denomination to which he belongs; or

(*h*) he is absent or excused as authorized under this Act and the regulations. R.S.O. 1970, c. 424, s. 6 (2); 1972, c. 77, s. 3.

Blind, deaf or mentally handicapped children

(3) The fact that a child is blind, deaf or mentally handicapped is not of itself an unavoidable cause under clause *b* of subsection 2 if the child is eligible for admission to the Ontario School for the Blind, an Ontario School for the Deaf or a school or class for trainable retarded children.

Child under compulsory age

(4) Where a child under compulsory school age has been enrolled as a pupil in an elementary school, this section applies during the period for which the child is enrolled as if he were of compulsory school age.

Duty of parent, etc.

(5) The parent or guardian of a child who is required to attend school under this section shall cause the child to attend school as required by this section.

Separate school supporters

(6) Nothing in this section requires the child of a Roman Catholic separate school supporter to attend a public school or a Protestant separate school, or requires the child of a public school supporter to attend a Roman Catholic separate school. R.S.O. 1970, c. 424, s. 6 (3-6), *amended*.

Where school year varied

21. Where a school year approved by the Minister does not commence on the day following Labour Day, references to the first school day in September and the last school day in June in section 20 shall be read as the first school day in the school year and the last school day in the school year respectively for the purpose of compulsory attendance of pupils of the school or schools or parts thereof to which the school year applies. 1973, c. 92, s. 5.

Suspension of pupil

22.—(1) A principal may suspend a pupil for a fixed period, not in excess of a period determined by the board, because of persistent truancy, persistent opposition to authority, habitual neglect of duty, the wilful destruction of school property, the use of profane or improper language, or conduct injurious to the moral tone of the school or to the physical or mental wellbeing of others in the school and, where a pupil has been suspended, the principal shall notify forthwith in writing the pupil, his teachers, the parent or guardian of the pupil, the board, the appropriate school attendance counsellor and the appropriate supervisory officer of the suspension, the reasons therefor and the right of appeal under subsection 2.

Appeal against suspension

(2) The parent or guardian of a pupil who has been suspended or the pupil, where he is an adult, may, within seven days of the commencement of the suspension, appeal to the board against the suspension and the board, after hearing the appeal or where no appeal is made, may remove, confirm or modify the suspension and, where the board considers it appropriate, may order that any record of the suspension be expunged. R.S.O. 1970, c. 424, s. 21 (2) (*l*), *amended*.

Expulsion of pupil

(3) A board may expel a pupil from its schools on the ground that his conduct is so refractory that his presence is injurious to other pupils where,

(*a*) the principal and the appropriate supervisory officer so recommend;

(*b*) the pupil and his parent or guardian have been notified in writing of,

(i) the recommendation of the principal and the supervisory officer, and

(ii) the right of the pupil where he is an adult and otherwise of his parent or guardian to make representations at a hearing to be conducted by the board;

(*c*) the teacher or teachers of the pupil have been notified; and

(*d*) such hearing has been conducted. R.S.O. 1970, c. 424, s. 34, par. 24; 1971, c. 90, s. 5 (3), *amended*.

Parties to hearing

(4) The parties to a hearing under this section shall be the parent or guardian of the pupil or the pupil, where he is an adult, the principal of the school that the pupil attends and, in the case of an expulsion, the appropriate supervisory officer.

Readmission of pupil

(5) A board may at its discretion readmit to school a pupil who has been expelled. *New*.

Provincial School Attendance Counsellor

23.—(1) The Lieutenant Governor in Council may appoint an officer, to be known as the Provincial School Attendance Counsellor, who shall, under the direction of the Minister, superintend and direct the enforcement of compulsory school attendance. R.S.O. 1970, c. 424, s. 7 (1).

Inquiry by Provincial Counsellor

(2) Where the parent or guardian of a child considers that the child is excused from attendance at school under subsection 2 of section 20, and the appropriate school attendance counsellor or the Provincial School Attendance Counsellor is of the opinion that the child should not be excused from

attendance, the Provincial School Attendance Counsellor shall direct that an inquiry be made as to the validity of the reason or excuse for non-attendance and the other relevant circumstances, and for such purpose shall appoint one or more persons who are not employees of the board that operates the school that the child has the right to attend to conduct a hearing and to report to him the result of the inquiry and may, by order in writing signed by him, direct that the child,

(*a*) be excused from attendance at school; or

(*b*) attend school,

and a copy of the order shall be delivered to the board and to the parent or guardian of the child. 1972, c. 77, s. 4.

Powers of Provincial Counsellor

(3) The Provincial School Attendance Counsellor has all the powers of a school attendance counsellor and may exercise such powers anywhere in Ontario. R.S.O. 1970, c. 424, s. 7 (4).

Appointment of school attendance counsellors

24.—(1) Every board shall appoint one or more school attendance counsellors.

Idem

(2) Two or more boards may appoint the same school attendance counsellor or counsellors.

Vacancies

(3) Where the office of a school attendance counsellor becomes vacant, it shall be filled forthwith by the board.

Notice of appointment

(4) Notice of the appointment of a school attendance counsellor shall be given in writing by the board to the Provincial School Attendance Counsellor and to the supervisory officers concerned. R.S.O. 1970, c. 424, s. 8.

Jurisdiction and responsibility of school attendance counsellor

(5) A school attendance counsellor appointed by a board has jurisdiction and is responsible for the enforcement of compulsory school attendance in respect of every child who is required to attend school and who,

(*a*) is qualified to be a resident pupil of the board; or

(*b*) is or has been enrolled during the current school year in a school operated by the board, except a child who is under the jurisdiction of a person appointed under section 119 of the *Indian Act* (Canada). R.S.O. 1970, c. 424, s. 9, *amended*. R.S.C. 1970, c. I-6

Powers of counsellors

25.—(1) Where a school attendance counsellor has reasonable and probable grounds for believing that a child is illegally absent from school, he may, at the written request of the parent or guardian of the child or of the principal of the

school that the child is required to attend, take the child to his parent or guardian or to the school from which he is absent provided that, if exception is taken to his entering a dwelling place, he shall not enter therein without a warrant. 1972, c. 77, s. 5 (1).

Reports

(2) A school attendance counsellor shall report to the board that appointed him as required by the board. R.S.O. 1970, c. 424, s. 10 (2); 1972, c. 77, s. 5 (2).

To act under appropriate supervisory officer and provincial counsellor

(3) A school attendance counsellor is responsible to the appropriate supervisory officer, and shall carry out the instructions and directions of the Provincial School Attendance Counsellor. R.S.O. 1970, c. 424, s. 10 (3).

Inquiry by counsellor and notice

(4) A school attendance counsellor shall inquire into every case of failure to attend school within his knowledge or when requested so to do by the appropriate supervisory officer or the principal of a school or a ratepayer, and shall give written warning of the consequences of such failure to the parent or guardian of a child who is not attending school as required, and shall also give written notice to the parent or guardian to cause the child to attend school forthwith, and shall advise the parent or guardian in writing of the provisions of subsection 2 of section 23. R.S.O. 1970, c. 424, s. 10 (4); 1972, c. 77, s. 5 (3).

Census

26. A board may make or obtain a complete census of all persons in the area in which the board has jurisdiction who have not attained the age of twenty-one years. R.S.O. 1970, c. 424, s. 11; 1972, c. 77, s. 6.

Reports and information

27.—(1) The principal of every elementary and secondary school shall,

(*a*) report to the appropriate school attendance counsellor and supervisory officer the names, ages and residences of all pupils of compulsory school age who have not attended school as required;

(*b*) furnish the school attendance counsellor with such other information as the counsellor requires for the enforcement of compulsory school attendance; and

(*c*) report in writing to the school attendance counsellor every case of expulsion and readmission of a pupil. R.S.O. 1970, c. 424, s. 12 (1); 1973, c. 92, s. 6.

Where no school attendance counsellor

(2) Where a child of compulsory school age has not attended school as required and there is no school attendance counsellor having jurisdiction in respect of the child, the appropriate

supervisory officer shall notify the parent or guardian of the child of the requirements of section 20. R.S.O. 1970, c. 424, s. 12 (2).

Provincial counsellor as trustee

28. Where it appears to the Minister that the board of a district school area is not providing accommodation or instruction for its resident pupils either in schools operated by the board or under an agreement with another board in schools operated by such other board, has neglected or failed to raise the necessary funds for the provision of such accommodation and instruction or has in other respects failed to comply with this Act and the regulations, or that the election of members of the board has been neglected and no regular board is in existence, the Minister may authorize and direct the Provincial School Attendance Counsellor to do all things and exercise all powers that may be necessary for the provision and maintenance of accommodation and instruction for the resident pupils of the board including the erection of school buildings and the conduct of schools and for the levying of all sums of money required for the purposes of the board, and generally whatever may be required for the purpose of establishing, maintaining and conducting schools in accordance with this Act and the regulations, and thereupon the Provincial School Attendance Counsellor has, for such period as authorized by the Minister, all the authority and powers vested in, and may, during such period, perform the duties of, the board. R.S.O. 1970, c. 424, s. 13, *amended*.

Liability of parent or guardian

29.—(1) A parent or guardian of a child of compulsory school age who neglects or refuses to cause the child to attend school is, unless the child is legally excused from attendance, guilty of an offence and on summary conviction is liable to a fine of not more than $100.

Bond for attendance

(2) The provincial judge may, instead of imposing a fine, require a person convicted of an offence under subsection 1 to submit to the Treasurer of Ontario a personal bond, in a form prescribed by the provincial judge, in the penal sum of $200 with one or more sureties as required, conditioned that the person shall cause the child to attend school as required by this Part, and upon breach of the condition the bond is forfeit to the Crown. R.S.O. 1970, c. 424, s. 14 (1, 2), *amended*.

Employment during school hours

(3) A person who employs during school hours a child who is required to attend school under section 20 is guilty of an offence and on summary conviction is liable to a fine of not more than $100. R.S.O. 1970, c. 424, s. 14 (3); 1972, c. 77, s. 7 (1), *amended*.

Offences by corporations

(4) Subsections 1 and 3 apply, *mutatis mutandis*, to a corporation and, in addition, every director and officer of the corporation who authorizes, permits or acquiesces in the

contravention is guilty of an offence and on summary conviction is liable to the same penalty as the corporation. R.S.O. 1970, c. 424, s. 14 (4).

Habitually absent from school

(5) A child who is required by law to attend school and who refuses to attend or who is habitually absent from school is guilty of an offence and on summary conviction is liable to the penalties provided for children adjudged to be juvenile delinquents under the *Juvenile Delinquents Act* (Canada), and the child and his parent or guardian may be summoned to appear before a provincial judge in the Provincial Court (Family Division), and the provincial judge has the same powers to deal with such child and his parent or guardian, including the imposition and payment of fines, as he has with respect to a juvenile delinquent and his parent or guardian under the *Juvenile Delinquents Act* (Canada), and subsection 2 of section 231 applies in any proceeding under this section. R.S.O. 1970, c. 424, s. 14 (5); 1972, c. 77, s. 7 (2), *amended*.

R.S.C. 1970, c. J-3

Proceedings under subs. 5

(6) Proceedings in respect of offences under subsection 5 shall be proceeded with only in accordance with such subsection. R.S.O. 1970, c. 424, s. 14 (6).

Reference to provincial counsellor for inquiry

(7) Where, in proceedings under this section, it appears to a provincial judge that the child may have been excused from attendance at school under subsection 2 of section 20, the provincial judge may refer the matter to the Provincial School Attendance Counsellor who shall direct that an inquiry shall be made as provided in subsection 2 of section 23 which subsection shall apply *mutatis mutandis* except that the Provincial School Attendance Counsellor shall, in lieu of making an order, submit a report to the provincial judge. 1972, c. 77, s. 7 (3).

Proceedings to be taken by attendance counsellors

30.—(1) Prosecutions under section 29 shall be instituted by the school attendance counsellor concerned and prosecutions under subsection 1 of section 29 shall be instituted in the Provincial Court (Family Division).

Certificate of principal as evidence

(2) In prosecutions under section 29, a certificate as to the attendance or non-attendance at school of any child, signed or purporting to be signed by the principal of the school, is *prima facie* evidence of the facts stated therein without any proof of the signature or appointment of the principal.

Proof of age

(3) Where a person is charged under section 29 in respect of a child who is alleged to be of compulsory school age and the child appears to the provincial judge to be of compulsory school age, the child shall, for the purposes of such prosecution, be deemed to be of compulsory school age unless the contrary is proved. R.S.O. 1970, c. 424, s. 15.

(4) An order made under subsection 2 of section 23 shall be admitted in evidence in a prosecution only where the prosecution is in respect of the school year for which the order was made. 1972, c. 77, s. 8.

Order re school attendance

31.—(1) A person has the right, without payment of a fee, to attend a school in a school section, separate school zone or secondary school district, as the case may be, in which he is qualified to be a resident pupil. R.S.O. 1970, c. 425, s. 62 (1), *amended*.

Resident pupil right to attend school

(2) Notwithstanding the other provisions of this Part, where it appears to a board that a person who resides in the area of jurisdiction of the board is denied the right to attend school without the payment of a fee, the board, at its discretion, may admit the person from year to year without the payment of a fee. R.S.O. 1970, c. 385, s. 5 (14); R.S.O. 1970, c. 425, s. 62 (5), *amended*.

Admission without fee

32.—(1) Subject to sections 34, 35 and 42, a person who attains the age of six years in any year is, after the 1st day of September in such year, qualified to be a resident pupil in respect of a school section until the last school day in June in the year in which he attains the age of twenty-one years, if,

Resident pupil public school qualification

(*a*) he resides in the school section in which his parent or guardian who is not a separate school supporter resides; or

(*b*) he or his parent or guardian is assessed for public school purposes in the school section,

(i) as an owner, or

(ii) for business assessment, or

(iii) as an owner and for business assessment,

for an amount that, when adjusted by the latest assessment equalization factor applicable thereto that is provided by the Minister, is not less than the quotient obtained by dividing the total equalized assessment, for the year next preceding, of property rateable for public school purposes in that school section, by the average daily enrolment of pupils resident in that school section in such year. R.S.O. 1970, c. 385, s. 4 (1); 1971, c. 69, s. 1 (3); 1973, c. 37, s. 2, *amended*.

(2) Subject to sections 34, 35 and 42, a person who attains the age of six years in any year is, after the 1st day of September in such year, qualified to be a resident pupil in respect of a separate school zone until the last school day in June in the year in which he attains the age of twenty-one years, if,

Resident pupil separate school qualification

(*a*) he resides in the separate school zone in which his parent or guardian who is a separate school supporter resides; or

(*b*) he or his parent or guardian is assessed for separate school purposes in the zone,

(i) as an owner, or

(ii) for business assessment, or

(iii) as an owner and for business assessment,

for an amount that, when adjusted by the latest assessment equalization factor applicable thereto that is provided by the Minister, is not less than the quotient obtained by dividing the total equalized assessment, for the year next preceding, of property rateable for separate school purposes in that zone, by the average daily enrolment of pupils resident in that zone in such year. R.S.O. 1970, c. 430, s. 25 (1), *part*; 1971, c. 70, s. 1 (3); 1972, c. 137, s. 1, *amended*.

Evidence as to right to attend

(3) It is the responsibility of the parent or guardian to submit evidence that the child has a right to attend an elementary school, including proof of age. R.S.O. 1970, c. 385, s. 4 (3); R.S.O. 1970, c. 430, s. 25 (3).

Resident pupil, elementary

(4) A person who is qualified to be a resident pupil in respect of a school section or a separate school zone is a resident pupil if he enrols in a school operated by the board of the school section or separate school zone, as the case may be, or in a school operated by another board to which the board of such school section or separate school zone pays fees on his behalf. *New*.

Kindergarten

33.—(1) Where a board operates a kindergarten in a school, a child who is otherwise qualified and resides within the attendance area of that school may become a resident pupil at an age one year lower than that referred to in section 32.

Junior kindergarten

(2) Where a board operates a junior kindergarten in a school, a child who is otherwise qualified and resides within the attendance area of that school may become a resident pupil at an age two years lower than that referred to in section 32. R.S.O. 1970, c. 385, s. 4 (4, 5); R.S.O. 1970, c. 430, s. 25 (4, 5).

Beginners class

(3) A board may provide a class or classes for children to enter school for the first time on or after the first school day in January and, where the board so provides, a child whose birthday is on or after the 1st day of January and before the 1st day of July, who resides in an area determined by the board and who is eligible to be admitted to an elementary

school or kindergarten, as the case may be, on the first school day in the following September, may become a resident pupil in respect of such class. 1973, c. 37, s. 1, *amended*.

When person not resident pupil

34.—(1) A person is not qualified to be a resident pupil in respect of an elementary school if he is unable by reason of mental or physical handicap to profit by instruction in an elementary school. R.S.O. 1970, c. 385, s. 4 (1) (*b*); R.S.O. 1970, c. 430, s. 25 (1), *part*.

Inability to profit by instruction

(2) The inability of a pupil to profit by instruction in an elementary school because of a mental or physical handicap shall be determined by a committee established by the board in accordance with this section. R.S.O. 1970, c. 385, s. 4 (2); R.S.O. 1970, c. 430, s. 25 (2), *amended*.

Idem

(3) Where the principal of an elementary school considers that a pupil who attends his school is unable by reason of a mental or physical handicap to profit by instruction in an elementary school, or where the parents or guardian of a pupil consider that the pupil is unable to profit by instruction by reason of a mental or physical handicap, the principal shall refer the matter to the appropriate supervisory officer who shall refer the matter to the board, and the board shall appoint a committee of three persons consisting of a supervisory officer and a principal, neither of whom is the supervisory officer or principal to whom the matter has been previously referred, and,

(*a*) a legally qualified medical practitioner where the pupil allegedly has a physical handicap; or

(*b*) a legally qualified psychiatrist where the pupil allegedly has a mental handicap or a multiple handicap involving both mental and physical defect.

Inquiry by committee

(4) The committee referred to in subsection 3 shall inquire into the alleged inability of the pupil to profit by instruction and the mental or physical condition of the pupil, determine whether the pupil can profit by instruction and make a written report to the board of its determination and, for the purposes of its inquiry, report and determination, the committee shall study all existing reports in respect of the pupil, hear the teachers, parents or guardian of the pupil and any other person who may be able to contribute information bearing upon the matter and may, with the consent of the parents or guardian of the pupil, obtain and consider in respect of the pupil,

(*a*) in the case of alleged mental handicap, a report of an intellectual assessment conducted by a person considered by the committee to be competent for the purpose; and

(*b*) in the case of alleged physical handicap, a report of a medical examination conducted by a legally qualified medical practitioner,

and any costs incurred in respect of such assessment or examination, or in respect of the obtaining of other evidence required by the committee, shall be paid by the board.

Review

(5) Where the parent or guardian of a person determined under this section to be unable to profit by instruction in an elementary school,

(*a*) believes that by reason of improvement in the mental or physical condition of the person or other cause the person has become able to profit by such instruction; and

(*b*) furnishes to a supervisory officer of the board in whose jurisdiction the person resides evidence or information to establish his belief,

the board shall appoint a committee constituted in accordance with subsection 3 which shall review the determination previously made under this section and confirm or alter such determination, and for such purpose the committee has the powers and duties of a committee under subsection 4, which subsection applies *mutatis mutandis*.

Notification of Minister re exclusion

(6) Where a person is excluded from an elementary school under this section, the board shall forthwith notify the Minister. *New*.

Admission where pupil moves into residence not assessed in accordance with his school support

35. Where a child who would otherwise have the right to attend school in a school section or separate school zone moves with his parent or guardian,

(*a*) who is not a separate school supporter, into a residence that is assessed to the support of separate schools; or

(*b*) who is a separate school supporter, into a residence that is assessed to the support of public schools,

and the latest date upon which the assessment of the residence may be changed from,

(*c*) separate to public school support; or

(*d*) public to separate school support,

has passed, upon the filing of a notice of change of support for the following year with the clerk of the municipality, the child shall be admitted, without the payment of a fee, to a public or separate school, as the case may be, that will be supported by the assessment of the residence on the effective date of the change of school support. R.S.O. 1970, c. 385, s. 5 (2); R.S.O. 1970, c. 430, s. 25 (11), *amended*.

36. Where a resident pupil of a school section or separate school zone resides,

Resident pupil's right to attend more accessible school in adjoining school section or separate school zone

(*a*) more than two miles by the shortest distance by road from the school that the pupil is required to attend; or

(*b*) more than one-half mile by the shortest distance by road from any point from which transportation is provided to the school that the pupil is required to attend; and

(*c*) nearer by the shortest distance by road to another public school in another school section in the case of a public school pupil, or to another separate school in another separate school zone in the case of a separate school pupil, than to the school that the pupil is required to attend,

the pupil shall be admitted to the nearer public school or the nearer separate school, as the case may be, referred to in clause *c*, where the appropriate supervisory officer for the school section or separate school zone, as the case may be, in which such school is situate, certifies that there is sufficient accommodation for the pupil in such school, and where the pupil is admitted to such school, the board of the school section or separate school zone of which he is a resident pupil shall pay in respect of the pupil a fee calculated in accordance with the regulations. R.S.O. 1970, c. 385, s. 5 (4), R.S.O. 1970, c. 430, s. 25 (14), *amended*.

37.—(1) A person is qualified to be a resident pupil in respect of a secondary school district if,

Resident pupil secondary school qualification

(*a*) he and his parent or guardian reside in the secondary school district; or

(*b*) he or his parent or guardian is assessed in the secondary school district,

(i) as an owner, or

(ii) for business assessment, or

(iii) as an owner and for business assessment,

for an amount that, when adjusted by the latest assessment equalization factor applicable thereto that is provided by the Minister, is not less than the quotient obtained by dividing the total equalized assessment, for the year next preceding, of property rateable for secondary school purposes in that second-

ary school district, by three times the average daily enrolment of pupils resident in that secondary school district in such year; or

(*c*) he resides in the secondary school district and is the owner or tenant of property therein that is separately assessed; or

(*d*) he is over eighteen years of age and has resided in the secondary school district for the twelve months immediately before his admission to a secondary school in the secondary school district or to a secondary school operated by another secondary school board to which the board of such secondary school district pays fees on his behalf. R.S.O. 1970, c. 425, s. 1, *part*; 1971, c. 68, s. 1; 1972, c. 75, s. 1, *amended*.

Resident pupil, secondary

(2) A person who is qualified to be a resident pupil in respect of a secondary school district is a resident pupil if he enrols in a secondary school operated by the board of the secondary school district or in a secondary school operated by another secondary school board to which the board of such secondary school district pays fees on his behalf. *New*.

Trainable retarded child

(3) Subsections 1 and 2 apply *mutatis mutandis* to a trainable retarded child in respect of a school division.

Metropolitan Area R.S.O. 1970, c. 295

(4) In subsection 3, school division includes the Metropolitan Area as defined in *The Municipality of Metropolitan Toronto Act*. *New*.

Admission of adult resident who is not a resident pupil

(5) Notwithstanding any general or special Act, a person who resides in a secondary school district and who, except as to residence, is qualified to be a resident pupil in another secondary school district shall be admitted, without the payment of a fee, to a secondary school operated by the board of the secondary school district in which he resides if,

(*a*) the person has attained the age of eighteen years and has been promoted or transferred to a secondary school; and

(*b*) the appropriate supervisory officer certifies that there is adequate accommodation in the secondary school. 1972, c. 75, s. 17.

Limitation on right to attend without payment of fee

(6) Notwithstanding section 31, where a pupil,

(*a*) has completed elementary school; and

(*b*) has attended one or more secondary schools for a total of seven or more years,

the board of the secondary school that he attends may charge a fee calculated in accordance with the regulations. R.S.O. 1970, c. 425, s. 63 (5), *amended*.

Resident pupil

38.—(1) Subject to subsections 2 and 3, a resident pupil of a secondary school district has the right to attend any secondary school,

(*a*) that is more accessible to the pupil than any secondary school in the secondary school district of which he is a resident pupil;

(*b*) to take, for the purpose of obtaining the secondary school honour graduation diploma, a subject or subjects not available in the secondary school district of which he is a resident pupil but required by the pupil for admission to any university or teacher-training course or for entry into any trade, profession or calling;

(*c*) to take a program of study that includes the subject of French for French-speaking pupils in the intermediate or senior division and that is not available in the secondary school district of which he is a resident pupil, where such program of study is required by the pupil for admission to any university or teacher-training course or for entry into any trade, profession or calling; or

(*d*) to take a program in a French-language school or class if a French-language school or class is not provided by the board of the secondary school district of which he is a resident pupil. R.S.O. 1970, c. 425, s. 62 (2); 1972, c. 75, s. 16 (1).

Restrictions

(2) Subsection 1 applies to a resident pupil of a secondary school district only if the appropriate supervisory officer certifies that there is adequate accommodation for the pupil in the school. R.S.O. 1970, c. 425, s. 62 (4).

Where agreement between boards

(3) Clauses *b*, *c* and *d* of subsection 1 do not apply to a resident pupil of a secondary school district if the board of the secondary school district has entered into an agreement with another secondary school board under section 160 and the programs and subjects referred to in such clauses are offered in the schools covered by the agreement. R.S.O. 1970, c. 425, s. 62 (6); 1972, c. 75, s. 16 (2).

Admission of resident pupil from other district

39.—(1) A person who is qualified to be a resident pupil of a secondary school district and who applies for admission to a secondary school situated in another secondary school district shall furnish the principal of the school to which admission is sought with a statement

signed by his parent or guardian or by the pupil where the pupil is an adult, stating,

(*a*) the name of the secondary school district in respect of which he is qualified to be a resident pupil;

(*b*) whether or not the pupil or his parent or guardian is assessed in the secondary school district in which the school is situated, and if so assessed the amount of such assessment; and

(*c*) the authority, under this Act, under which the pupil claims to have a right to attend the school. R.S.O. 1970, c. 425, s. 65 (1); 1972, c. 75, s. 18, *amended*.

Notice of admission

(2) The principal of the school shall forward the statement to the chief executive officer of the board that operates the school and, if the pupil is admitted, the chief executive officer of the board shall forthwith notify the chief executive officer of the board of the secondary school district of which the pupil is qualified to be a resident pupil of the fact of the admission and of the information included in the statement. R.S.O. 1970, c. 425, s. 65 (2), *amended*.

Admission to secondary school

40.—(1) Where a pupil has been promoted from elementary school, he shall be admitted to secondary school.

Idem

(2) A person who has not been promoted from elementary school shall be admitted to a secondary school if the principal of the secondary school has satisfied himself that the applicant is competent to undertake the work of the school. R.S.O. 1970, c. 425, s. 61 (1, 2), *amended*.

Where admission denied

(3) Where an applicant for admission to a secondary school under subsection 2 is denied admission by the principal, the applicant may appeal to the board and the board may, after a hearing, direct that the applicant be admitted or refused admission to a secondary school.

Alternative course or program

(4) Where the pupil has clearly demonstrated to the principal that he is not competent to undertake a particular course or program of studies, the principal shall not permit him to undertake such course or program, in which case the pupil may take a prerequisite course, or select with the approval of the principal an appropriate alternative course or program provided that, where the pupil is a minor, the consent of his parent or guardian has been obtained.

(5) A person is entitled to enrol in a course of study in an evening class if, in the opinion of the principal after due examination or other investigation, he is considered competent to undertake the desired course, but his admission to such course does not entitle him to be admitted to a day course. R.S.O. 1970, c. 425, s. 61 (3, 4, 5), *amended*. Admission to evening classes

41. Where, for any reason, one parent of a person is the sole support of the person, and that parent, Admission where one parent is sole support

(*a*) resides in Ontario;

(*b*) is not assessed for school purposes in Ontario; and

(*c*) boards the person in a residence that is not a children's boarding home as defined in *The Children's Boarding Homes Act*, R.S.O. 1970, c. 65

the person shall, if otherwise qualified to be a resident pupil, be deemed to be a resident pupil in respect of,

(*d*) a school section, if such residence is situate in the school section and is assessed to the support of public schools; or

(*e*) a separate school zone, if the person is a Roman Catholic and such residence is situate in the separate school zone and is assessed to the support of separate schools; or

(*f*) a secondary school district, if such residence is situate in the secondary school district and is assessed to the support of secondary schools. R.S.O. 1970, c. 385, s. 5 (6); R.S.O. 1970, c. 425, ss. 64 (4), 77 (3); R.S.O. 1970, c. 430, s. 25 (10), *amended*.

42.—(1) A person who resides in a school section, separate school zone or secondary school district in which his parent or guardian resides, on land that is exempt from taxation for school purposes, is not qualified to be a resident pupil of the school section, separate school zone or secondary school district, unless the person or his parent or guardian is assessed and pays taxes for school purposes in such school section, separate school zone or secondary school district. Tax exempt land

(2) A person who is otherwise qualified to attend an elementary or secondary school and who resides on land that is exempt from taxation for school purposes shall be admitted Resident on land exempt from taxation

to a school that is accessible to him where the appropriate supervisory officer has certified that there is sufficient accommodation for the person in the school for the current year, and fees calculated in accordance with the regulations shall, except where the regulations provide otherwise in respect of such fees, be prepaid monthly by the person or by his parent or guardian. R.S.O. 1970, c. 425, s. 1, *part*; R.S.O. 1970, c. 430, s. 25 (16); 1971, c. 69, s. 1 (3), *part, amended*.

Admission of ward, etc., of children's aid society to an elementary school

43.—(1) A child who is a ward of a children's aid society or in the care of a children's aid society, and who is otherwise qualified to be admitted to an elementary school, shall be admitted without the payment of a fee to an elementary school operated by the board of the school section or separate school zone, as the case may be, in which the child resides. 1971, c. 69, s. 1 (1); 1971, c. 70, s. 1 (1), *amended*.

Admission of ward, etc., of children's aid society to a secondary school

(2) A child who is a ward of a children's aid society or in the care of a children's aid society, and who is otherwise qualified to be admitted to a secondary school, shall be admitted without the payment of a fee to a secondary school operated by the board of the secondary school district in which the child resides. 1971, c. 68, ss. 6 (1), 7 (1).

Where fee payable

44. Where a child who is in the custody of a corporation, society or person, has not the right under the other provisions of this Part to attend the school that the corporation, society or person elects that he attend, and the appropriate supervisory officer certifies that there is sufficient accommodation in such school for the current school year, the board that operates such school shall, where the child is otherwise qualified to attend such school, admit the child to the school upon the prepayment monthly by the corporation, society or person of a fee calculated in accordance with the regulations. R.S.O. 1970, c. 385, s. 5 (9); R.S.O. 1970, c. 425, s. 64 (3); R.S.O. 1970, c. 430, s. 25 (9), *amended*.

Right of certain pupils to attend school in another jurisdiction

45.—(1) Where, on the 31st day of December, 1968, a pupil was enrolled in a public, separate or secondary school that he had a right to attend, and the school on and after the 1st day of January, 1969, is situated in a school division or a combined separate school zone, as the case may be, other than the school division or the combined separate school zone in which the pupil resides, the pupil has, in addition to any other right that he may have under this Act, subject to subsection 5 of section 37, the right to attend the school until he completes his education in the school.

(2) Where any part of a school section, separate school zone or secondary school district, after the 1st day of January, 1969, forms part of a school division or a county or district combined separate school zone, as the case may be, other than the school division or county or district combined separate school zone in which the school that the pupils resident in such part had the right to attend on the 31st day of December, 1968, is situate, all pupils who reside in such part after the 1st day of January, 1969, may attend such school until the divisional boards concerned, or the county or district combined separate school boards concerned, as the case may be, agree to other arrangements for the accommodation of such pupils. R.S.O. 1970, c. 425, s. 43 (1, 2); R.S.O. 1970, c. 430, s. 92 (1, 2). Idem

(3) Where, on the 31st day of December, 1973, a pupil is enrolled in a public or secondary school that he has a right to attend and the school, on and after the 1st day of January, 1974, is situated in a school division other than the school division in which the pupil resides, the pupil has, in addition to any right that he may have under this Act, subject to subsection 5 of section 37, the right to attend the school until he completes his education in the school, and the divisional boards concerned may enter into an agreement in respect of the transportation to and from school of such pupils. 1973, c. 91, s. 4 (1). Idem

(4) Where, on the 31st day of December, 1973, a pupil is enrolled in a separate school that he has a right to attend and the school, on and after the 1st day of January, 1974, is situated in the area of jurisdiction of a separate school board other than the separate school board that has jurisdiction in the area in which the pupil resides, the pupil has, in addition to any other right that he may have under this Act, the right to attend the school until he completes his education in the school, and the separate school boards concerned may enter into an agreement in respect of the transportation to and from school of such pupils. 1973, c. 117, s. 4 (1). Idem

(5) This section does not extend the right acquired by a pupil to attend a school under an order of the Ontario Municipal Board or under an agreement between two or more boards or between a board and the Crown in right of Canada. R.S.O. 1970, c. 425, s. 43 (3); R.S.O. 1970, c. 430, s. 92 (3). Application

46.—(1) Where a resident pupil of a secondary school district attends a secondary school that he has a right to attend under subsection 1 of section 38, the board of the Fees payable

secondary school district of which he is a resident pupil shall pay to the board that operates the secondary school attended by the pupil a fee calculated in accordance with the regulations. R.S.O. 1970, c. 425, s. 63 (2), *amended*.

Idem

(2) Where a resident pupil of a school division attends a public or secondary school in another school division under section 45, the divisional board of which he is a resident pupil shall pay to the divisional board that operates the school attended by the pupil a fee calculated in accordance with the regulations. R.S.O. 1970, c. 385, s. 5 (15), *amended*.

Idem

(3) Where a separate school pupil resident in a county or district combined separate school zone attends a separate school in another combined separate school zone under section 45, the board of the combined separate school zone in which he resides shall pay to the combined separate school board that operates the separate school attended by the pupil a fee calculated in accordance with the regulations. R.S.O. 1970, c. 430, s. 25 (17), *amended*.

Admission of resident pupil to another school by reason of distance to school

(4) A child who resides with his parent or guardian in a residence that is assessed to the support of public schools and who may be excused from attendance under clause *c* of subsection 2 of section 20 may be admitted to a public school in another school section if the appropriate supervisory officer certifies that there is sufficient accommodation for him, and the board of the section in which the child resides shall pay to the board of the other school section a fee calculated in accordance with the regulations. R.S.O. 1970, c. 385, s. 5 (3), *amended*.

Admission of non-resident pupils

(5) A board may admit to a school that it operates a person who, except as to residence, is qualified to attend such school, and may, at its discretion, require the payment by or on behalf of the person of a fee calculated in accordance with the regulations. R.S.O. 1970, c. 385, s. 5 (14); R.S.O. 1970, c. 425, s. 62 (5), *amended*.

PART III

PUBLIC AND SECONDARY SCHOOLS

Tax Exemption of Separate School Supporters

Exemption of supporters of separate schools

47. Nothing in this Act authorizing the levying or collecting of taxes on property rateable for public school purposes applies to the supporters of Roman Catholic separate schools or Protestant separate schools, except that the taxable prop-

erty in respect of which a person gives notice under section 116 or 135 or under section 23 of *The Assessment Act* is not exempt from taxation for public school purposes imposed before the person becomes a separate school supporter in respect of such property. R.S.O. 1970, c. 385, s. 2, *amended*. R.S.O. 1970, c. 32

Religious Instruction

48.—(1) Subject to the regulations, a pupil shall be allowed to receive such religious instruction as his parent or guardian desires or, where the pupil is an adult, as he desires. Religious instruction

(2) No pupil in a public school shall be required to read or study in or from a religious book, or to join in an exercise of devotion or religion, objected to by his parent or guardian, or by the pupil, where he is an adult. R.S.O. 1970, c. 385, s. 7, *amended*. Religious exercises

Visitors

49. A parent or guardian of a child attending a public or secondary school and a member of the board that operates the school may visit such school, and a member of the Assembly and a clergyman may visit a public and secondary school in his constituency or in the area where he has pastoral charge, as the case may be. R.S.O. 1970, c. 385, s. 8 (1), *amended*. Visitors

Divisional Boards

50.—(1) A school section or a secondary school district that is designated as such by the Minister on lands held by the Crown in right of Canada or Ontario or by an agency thereof, or on any lands that are exempt from taxation for school purposes, shall not be included in a school division. Application to schools on exempt land

(2) For divisional board purposes, the County of Essex includes Pelee Island. Essex county

(3) In respect of divisional boards of education, Territory without municipal organization deemed district municipality

(*a*) every school section in existence on the 31st day of December, 1968 that comprised only territory without municipal organization, except a school section established under section 67 or 68;

(*b*) any part of territory without municipal organization that on the 31st day of December, 1968 was part of a high school district but was not in a school section; and

(*c*) any part of territory without municipal organization that is designated by a regulation made under sub-

section 1 of section 52, or a predecessor thereof, as a district municipality or that is added to a school division without being so designated and that on the 31st day of December, 1968 was not in a school section or in a high school district,

shall be deemed to be a district municipality. R.S.O. 1970, c. 425, s. 27 (2-4), *amended*.

Powers and duties of divisional board re territory without municipal organization

51.—(1) Subject to subsection 2, the divisional board of a school division that includes territory without municipal organization that is deemed a district municipality shall, for public school purposes and for secondary school purposes, exercise the powers and duties of a municipal council for such district municipality with respect to preparing estimates, levying rates, collecting taxes and issuing debentures for the purposes of the divisional board, and with respect thereto and to the election of members of the divisional board all the officers appointed by the divisional board have the same powers and duties as similar officers in an organized municipality and the provisions of subsections 5 to 11 of section 65 apply *mutatis mutandis*, and the expenses incurred by the board in connection therewith except the issuing of debentures shall be apportioned to the property rateable for public school purposes and to the property rateable for secondary school purposes in such district municipality in the ratio that the assessment of such property rateable for public school purposes bears to the assessment of such property rateable for secondary school purposes, and shall be included in the levy imposed for school purposes on such property. R.S.O. 1970, c. 425, s. 27 (5); 1972, c. 136, s. 2, *amended*.

Parts of territory without municipal organization attached to municipality

(2) Except as provided in subsection 4, where any part of territory without municipal organization that is included in a school division is attached to a municipality for public school purposes or is deemed to be attached to a municipality for public and secondary school purposes, such part shall continue to be deemed to be attached to such municipality for the purposes of the divisional board, and the officers of such municipality shall collect all taxes and do all such other acts and perform all such duties and be subject to the same liabilities with respect to such part of territory without municipal organization that forms part of the school division as with respect to any part of the school division that is within the municipality, and the expenses incurred in connection therewith shall be apportioned to the property rateable for public school purposes and to the property rateable for secondary school purposes in such territory without municipal organization in the ratio that the assessment of such

property rateable for public school purposes bears to the assessment of such property rateable for secondary school purposes and shall be included in the levy imposed for school purposes on such property, but the divisional board may, by resolution passed before the 1st day of July in any year effective on the 1st day of January next following, a copy of which resolution shall be given forthwith to the Minister, the clerk of the municipality and the appropriate assessment commissioner, detach such territory from the municipality for school purposes and deem such territory to be a district municipality whereupon subsection 1 applies thereto. R.S.O. 1970, c. 425, s. 27 (7), *amended*.

Estimates to include expenses of collection, etc., and allowances to be made

(3) The divisional board in preparing estimates of the sums required to be raised under subsection 1 or 2 shall,

(*a*) make allowance for the abatement of and discount on taxes, for uncollectable taxes and for taxes that it is estimated will not be collected during the year in such part of the territory without municipal organization;

(*b*) include the proper proportion of the salaries and expenses of the officers involved, having regard to the time spent by such officers on their duties under subsection 1 or 2; and

(*c*) include the cost of providing elections of members of the board in such territory. R.S.O. 1970, c. 385, s. 40 (2), *amended*.

Where attached territory not included with municipality for election

(4) Where any part of territory without municipal organization is attached to a municipality for public school purposes, or is deemed to be attached to a municipality for public and secondary school purposes, and such part is included, pursuant to subsection 9 of section 57, with one or more municipalities in a combined area for the election of one or more members of the divisional board and the combined area does not include the municipality to which such part is so attached, such part shall be deemed to be attached for election purposes to the municipality that has the greatest residential and farm assessment in the combined area according to the last revised assessment roll as adjusted by the latest assessment equalization factor applicable thereto for each such municipality, provided by the Minister, and the provisions of subsection 2 apply *mutatis mutandis*. R.S.O. 1970, c. 425, s. 27 (8); 1972, c. 1, s. 63 (1); 1972, c. 75, s. 6 (3).

Elections in improvement districts

(5) The secretary-treasurer of an improvement district that forms all or part of a school division, in each year in which an election for members of the divisional board is to be held,

shall provide for such election in the improvement district in the same manner as for the election of members of a divisional board in a municipality and shall have all the powers and shall perform all the duties of the clerk and returning officer of a municipality in relation to the election of members of a divisional board under *The Municipal Elections Act, 1972*. R.S.O. 1970, c. 425, s. 27 (9); 1972, c. 75, s. 6 (4), *amended*.

1972, c. 95

School divisions, formation and alteration

52.—(1) The Lieutenant Governor in Council may, by regulation,

(*a*) designate as a school division all or part of one or more municipalities, localities, counties, regional municipalities, district municipalities or territory without municipal organization or a combination thereof;

(*b*) assign a name, subject to subsections 4, 5, 6 and 7, to the divisional board of a school division;

(*c*) dissolve a board of a school division or school section;

(*d*) combine two or more adjoining school divisions to form one school division and provide that the board of the combined school division shall be a divisional board of education;

(*e*) alter the boundaries of a school division and, where any part of territory without municipal organization is attached to a school division, designate such part as a district municipality or attach it to a district municipality.

Adjustment of assets and liabilities on formation

(2) Upon the formation of a new school division,

(*a*) all lands and premises that become part of a new school division, including the personal property therein or thereon and that, on the last school day immediately prior to such formation, were used as school sites and vested in the board of a school division or school section affected by such formation, become vested in the board of such new school division, and no compensation or damages are payable in respect of such lands, premises and personal property;

(*b*) all debts, contracts, agreements and liabilities for which a board or former board was liable in respect of that portion of its area of jurisdiction that becomes part of a new school division become obligations of the board of such new school division unless otherwise determined under clause *c*;

(*c*) the boards affected by such formation shall, in respect of the area that becomes part of a new school division, adjust in such manner as may be agreed upon by such boards, the assets and liabilities of such boards as of the date of such formation, except the property referred to in clause *a*, and, where the boards are unable to agree, any matter in disagreement shall be referred by a board affected to the Ontario Municipal Board, whose decision is final;

(*d*) the Minister may, by order, provide for the first election of the divisional board of a new school division, for a new election, subject to subsections 4 to 8 of section 54, of the divisional board or board of a school section of an altered school division or school section, for the right of pupils affected by such formation to continue to attend schools that they were attending immediately prior to the formation and for any matter not specifically provided for in this section that he considers necessary or advisable to carry out the intent and purposes of this Part.

Dissolution of board

(3) No regulation made under this section has the effect of dissolving a board unless so provided in the regulation.

Name of board; defined city

(4) Except where expressly provided in any other Act, the name of a divisional board that has jurisdiction in a defined city is "The Board of Education for the City of ....." (*inserting the name of the defined city*).

county

(5) The name of a divisional board that has jurisdiction in one county is "The..... County Board of Education" (*inserting the name of the county*).

regional municipality and counties

(6) Except where expressly provided in any other Act, the name of a divisional board that has jurisdiction in,

(*a*) all or part of a regional municipality;

(*b*) all or parts of two or more counties; or

(*c*) all or part of a regional municipality and all or part of one or more counties,

is "The..... Board of Education" (*inserting the name assigned by the regulations*).

territorial districts

(7) The name of a divisional board that has jurisdiction in the territorial districts is "The..... Board of Education" (*inserting the name assigned by the regulations*). R.S.O. 1970, c. 425, ss. 28, 29, *part, amended*.

Divisional boards establishment

53.—(1) A divisional board of education shall be established in each school division, and the members of the board shall be elected and the board organized in accordance with sections 50 to 57. R.S.O. 1970, c. 425, s. 29, *part*.

Deemed public school section and secondary school district

(2) For the purposes of every Act, a school division shall be deemed to be a school section and a secondary school district. R.S.O. 1970, c. 425, s. 28, *part*.

Powers and duties

(3) Every divisional board is a corporation and has all the powers and shall perform all the duties that by this or any other Act are conferred or imposed upon,

(*a*) a public school board for public school purposes; and

(*b*) a secondary school board for secondary school purposes. R.S.O. 1970, c. 425, s. 29, *part*.

Members to be trustees

(4) A member of a divisional board who is,

(*a*) elected by separate school electors; or

(*b*) appointed, in the case of a vacancy,

(i) by the remaining members elected to the divisional board by separate school electors, or

(ii) by a separate school board,

is a trustee for secondary school purposes only and shall not move, second or vote on a motion that affects public schools exclusively, and all other members of a divisional board are trustees for public and secondary school purposes. 1971, c. 68, s. 4, *amended*.

Trustees

(5) All members of a divisional board are trustees for the purposes of schools for trainable retarded children. R.S.O. 1970, c. 425, s. 72.

Alteration of boundaries: disposition of assets and liabilities

54.—(1) Where the boundaries of a school division are altered, except by reason of the formation of a new school division, all lands and premises that,

(*a*) are situate in an area that is added to a school section or secondary school district by such alteration;

(*b*) are used as school sites on the last school day preceding the effective date of such alteration; and

(*c*) immediately prior to the effective date of such alteration are vested in another board of education, public school board or secondary school board except a board appointed or formed under section 68,

shall, on and after such effective date, be vested without compensation, subject to all existing debts, contracts, agreements and liabilities that pertain to such lands and premises, in the board of the school section or secondary school district to which such area is added, and the boards concerned shall agree upon the disposition of all other property situate upon, or used in connection with, such lands and premises.

Dispute

(2) Any dispute as to the disposition of property under subsection 1 may be referred by one or more of the boards concerned to the Ontario Municipal Board, which shall determine the matters in dispute, and its decision is final.

Employment contracts

(3) The employment contract of every employee of a board who, immediately before the effective date of the alteration of the boundaries of a school division, was required to perform his duties in a school that is vested under subsection 1 in the board of a school division, school section or secondary school district becomes an obligation of the board in which the school is vested.

Representation of municipalities detached and added to another school division

(4) Subject to subsection 8, where one or more municipalities are detached from a school division and attached to an adjoining school division and a member of the board of the school division from which the municipality or municipalities are detached resides in one such municipality and was elected by public school electors to represent such municipality, whether or not the municipality was combined with one or more other municipalities for election purposes, such member shall, on the effective date of the attaching of the municipality or municipalities, cease to be a member of the board to which he was elected and shall on such date and for the remainder of his term of office be deemed,

(*a*) to have been elected by public school electors to the board of the school division to which the municipality in which he resides is attached; and

(*b*) to represent on such board the municipality in which he resides and the other municipality or municipalities, if any, that were combined therewith for election purposes under subsection 9 of section 57 at the time of his election and that are also attached to such school division,

and for such period the municipality or combined municipalities so attached shall be deemed to have been determined under subsection 9 of section 57 as a municipality or municipalities to be represented by one member to be elected by the public school electors.

Where board reduced by transfer of area

(5) Where one or more municipalities are detached from a school division and the number of members of the board of such school division elected by public school electors is reduced pursuant to subsection 4, for the remainder of the term of the board the number of members who remain on the board and who were elected by public school electors and the total number of members who remain on the board shall be deemed to be the number of members to be elected by public school electors under subsection 4 of section 57 and the total number of members determined under subsection 2 of section 57 respectively.

Representation of public school electors of municipality attached to school division

(6) Subject to subsection 8, where a municipality or part thereof is detached from a school division and attached to an adjoining school division, school section or secondary school district, on the effective date thereof and for the remainder of the term of office of the board of the enlarged school division, school section or secondary school district, the public school electors of such municipality or part shall be represented thereon by the member or members last elected thereto by the public school electors of the municipality, combination of municipalities or ward that adjoins the attached municipality or part and, where there are two or more such organized municipalities, combinations of municipalities or wards, the members of the board elected by public school electors shall, by resolution, determine which member or members shall represent the public school electors in the attached municipality or part for the remainder of the term of office of the board, but this subsection does not apply to the municipality or municipalities that will be represented by a member by virtue of subsection 4.

Representation of separate school supporters of municipality attached to school division

(7) Subject to subsection 8, where one or more municipalities or part or parts thereof are detached from a school division and attached to an adjoining school division or secondary school district, on the effective date thereof and for the remainder of the term of office of the board of the

enlarged school division or secondary school district, the separate school supporters in each such municipality or part shall be represented thereon by the member or members last elected thereto by the separate school electors in the area that adjoins such attached municipality and for which one or more members are elected to represent separate school supporters.

Where subss. 4, 6, 7 do not apply

(8) Subsections 4, 6 and 7 do not apply where a regular election of the board is to be held in the year preceding the effective date on which the municipality, municipalities or part or parts thereof are attached to the adjoining school division, school section or secondary school district, as the case may be. 1973, c. 91, s. 1.

Composition of board for defined city, members elected by public school electors

55.—(1) Where a school division comprises only a defined city, the members to be elected to the divisional board by public school electors shall, except where the method of election is that provided under subsection 1 or 2 of section 56, be elected by a general vote of such electors, in which case the number of members shall be determined by the population of the municipality as follows, where the population is,

(*a*) less than 10,000, six members;

(*b*) 10,000 or more but less than 50,000, eight members;

(*c*) 50,000 or more but less than 100,000, ten members;

(*d*) 100,000 or more, twelve members. R.S.O. 1970, c. 385, s. 16 (2); R.S.O. 1970, c. 425, s. 37 (1), *amended*.

Change in number of members

(2) Where it becomes evident from the population of a defined city that the number of members of the divisional board to be elected by public school electors should be increased or decreased, at the next election of trustees the proper number of members shall be elected. R.S.O. 1970, c. 385, s. 16 (3), *amended*.

Members elected by separate school electors

(3) In addition to the members elected by the public school electors under subsection 1 or section 56, the separate school electors in the defined city shall elect the number of members equal to the product, correct to the nearest integer, the fraction one-half being raised to the next higher integer, obtained by multiplying the number of members to be elected by the public school electors by the ratio of the residential and farm assessment of the property rateable for separate school purposes in the defined city to the residential and

farm assessment of the property rateable for public school purposes in the defined city, according to the latest revised collector's roll, but in no case shall the number of members to be elected under this subsection be fewer than two. R.S.O. 1970, c. 425, s. 37 (2), *amended*.

Clerk to make determination

(4) The clerk of the defined city shall make the determination under subsection 3 and shall send to the secretary of the divisional board, before the 1st day of September in the year of the election of the divisional board, a copy of the determination. 1972, c. 75, s. 10.

Election by separate school electors in defined city

(5) The members to be elected under subsection 3 shall be elected as provided in subsection 21 of section 57, which subsection applies *mutatis mutandis*. R.S.O. 1970, c. 425, s. 37 (3), *amended*.

Defined city divided into wards

56.—(1) The number of members to be elected by the public school electors of a defined city that is divided into wards may be two for each ward, elected by the electors of that ward. R.S.O. 1970, c. 385, s. 17 (1); 1972, c. 74, s. 4.

Where five or more wards

(2) Where a defined city is divided into five or more wards, the number of members to be elected by the public school electors may be one for each ward, elected by the electors of that ward. R.S.O. 1970, c. 385, s. 17 (2), *amended*.

Method of changing composition and election of board

(3) Subject to subsection 5, the number of members to be elected by the public school electors of a defined city that is divided into wards, and the method of their election, may be changed from the existing number and method to another number and method that is in accordance with section 55 or this section by resolution passed by majority vote of the members of the board who were elected by the public school electors, and upon notice thereof given by the chief executive officer of the board to the clerk of the defined city before the 1st day of July next preceding the election. R.S.O. 1970, c. 385, ss. 17 (3), 18 (1), *amended*.

Election of new board after change

(4) At the election next following the giving of the notice required under subsection 3, the proper number of members shall be elected. R.S.O. 1970, c. 385, s. 18 (3), *amended*.

Limitations on changing election

(5) A change in the method of election may not be made under this section unless the board has been elected by the existing method for at least the two preceding regular elections. R.S.O. 1970, c. 385, s. 18 (4), *amended*.

57.—(1) In this section, Interpretation

(*a*) "equalized residential and farm assessment" means the residential and farm assessment referred to in clause *b* as adjusted by the latest assessment equalization factor applicable thereto that is provided by the Minister;

(*b*) "residential and farm assessment" means the residential and farm assessment upon which taxes are levied in the year in which,

(i) a determination referred to in this section is made, or

(ii) nominations are held,

as the case may be;

(*c*) the Town of Newcastle in The Regional Municipality of Durham shall be deemed to be a city. R.S.O. 1970, c. 425, s. 38 (1); 1972, c. 75, s. 11 (1-3), *amended*.

(2) Subject to subsections 4, 5 and 6, the number of members on a divisional board, except a divisional board of a defined city, shall be determined by the total population of the municipalities, not including any territory without municipal organization that is deemed a district municipality, within the school division, as follows, where the population is, Composition of board for other than defined city

(*a*) less than 50,000, fourteen members;

(*b*) 50,000 or more but less than 100,000, sixteen members;

(*c*) 100,000 or more but less than 150,000, eighteen members;

(*d*) 150,000 or more, twenty members,

provided that where a school division in the territorial districts comprises fewer than four municipalities, not including any territory without municipal organization that is deemed a district municipality, where the population of such municipalities in the school division is,

(*e*) less than 3,500, five members;

(*f*) 3,500 or more but less than 5,000, eight members; and

(*g*) 5,000 or more but less than 10,000, ten members.

Change in number of members

(3) Where it becomes evident from the population of the municipalities in a school division that the number of members on a divisional board should be increased or decreased in accordance with subsection 2, at the next election of members the proper number of members shall be elected.

Number of members to be elected by public school electors

(4) The public school electors of the school division shall elect the number of members equal to the product, correct to the nearest integer, the fraction one-half being raised to the next higher integer, obtained by multiplying the number of members to be elected under subsection 2 by the ratio of the equalized residential and farm assessment of the property rateable for public school purposes in the school division to the equalized residential and farm assessment of all the rateable property in the school division, but in no case shall the number of members to be elected under this subsection be fewer than,

(*a*) six where the number of trustees under subsection 2 is fourteen or more; or

(*b*) four where the number of trustees under subsection 2 is fewer than fourteen.

Number of members to be elected by separate school electors

(5) The separate school electors in the school division shall elect the number of members equal to the product, correct to the nearest integer, the fraction one-half being raised to the next higher integer, obtained by multiplying the number of members to be elected under subsection 2 by the ratio of the equalized residential and farm assessment of the property rateable for separate school purposes in the school division to the equalized residential and farm assessment of all the rateable property in the school division, but where the product obtained is less than one, one member shall be elected under this subsection. R.S.O. 1970, c. 425, s. 38 (2-5).

Number of members to be elected by public school electors in a city and in county or district municipalities

(6) The number of members of a divisional board to be elected by the public school electors,

(*a*) of each city shall be equal to the product, correct to the nearest integer, the fraction one-half being

raised to the next higher integer, obtained by multiplying the number of members determined under subsection 4 by the ratio of the equalized residential and farm assessment of the property rateable for public school purposes in the city to the equalized residential and farm assessment of all the property rateable for public school purposes in the school division; and

(*b*) of the county or district municipalities shall be the number of members determined under subsection 4 less the total number of members determined under clause *a* for the city or cities, if any, but in no case shall the number of members to be elected under this clause be fewer than one. R.S.O. 1970, c. 425, s. 38 (6); 1972, c. 75, s. 11 (4).

When determination to be made under subss. 4-6

(7) Before the 1st day of September in the year in which an election is to be held, a determination shall be made,

(*a*) under subsections 4, 5 and 6 if,

(i) it is determined under subsection 3 that the number of members of the divisional board should be increased or decreased, or

(ii) the boundaries of the school division are altered effective the 1st day of January next following the election, or

(iii) the boundaries of the school division have been altered subsequent to the latest determination;

(*b*) under subsection 6 if,

(i) the boundaries of one or more cities within the school division have been altered or a new city has been erected in the school division subsequent to the latest determination made under subsection 6 that did not take into account the altered boundaries or the new city, or

(ii) the boundaries of one or more cities within the school division are to be altered or a new city is to be erected effective on the 1st day of January of the year next following the election; and

(*c*) under subsections 4, 5 and 6 in every fourth year following the latest determination under subsections 4 and 5,

and a determination made under subsection 4, 5 or 6 is effective until a new determination is required in accordance with this subsection.

Where city does not qualify for at least one member to be elected by public school electors

(8) Where a city is not entitled to one or more members under clause *a* of subsection 6, the city shall be deemed to be a county or district municipality for the purposes of subsections 6 and 9, and the clerk of the city shall be deemed to be a clerk of a county or district municipality for the purposes of subsection 9. R.S.O. 1970, c. 425, s. 38 (7, 8); 1973, c. 91, s. 3 (1), *amended*.

Distribution of members to be elected by public school electors in county or district municipalities

(9) With respect to,

(*a*) the county municipalities in a county that comprises a school division, the council of the county;

(*b*) the county municipalities in a regional municipality that are in a school division and the county municipalities in a school division that comprises a county and part of a regional municipality, the clerks of the three county municipalities having successively the greatest equalized residential and farm assessment for public school purposes in the school division; and

(*c*) the district municipalities in a school division, the clerks of the three organized district municipalities having successively the greatest equalized residential and farm assessment for public school purposes in the school division and the clerk of each town or village in which a secondary school is located in the school division and, where there are fewer than three organized district municipalities in the school division, the clerks of all such municipalities,

shall determine the municipality or municipalities to be represented by each member to be elected in the school division by the public school electors under clause *b* of subsection 6, but in no case shall the determination under this subsection provide for a member to be elected by a general vote of all the public school electors of the municipalities other than cities in the school division, and such determination is effective for a period of four years or until the number of members for the school division is increased or decreased under subsection 3 or the boundaries

of one or more county or district municipalities within the school division are altered or are to be altered effective the 1st day of January next following the election. R.S.O. 1970, c. 425, s. 38 (9); 1972, c. 75, s. 11 (5, 6), *amended*.

Distribution of members within combined municipalities

(10) Where two or more county municipalities that are not in a regional municipality are combined under subsection 9 for the election of two or more members by the public school electors and one of the combined municipalities has a population in excess of 75,000, the clerks of such combined municipalities may determine that a portion of a county municipality that is so combined be attached to one or more of the other county municipalities in the combination of municipalities for the election of one or two members and, where the clerks of such combined municipalities so determine,

(*a*) the number of members to be elected by the public school electors of the combined municipalities shall be apportioned among the combined areas formed under this subsection and the remainder, if any, of such combined municipalities, as nearly as is practicable in the proportion that the equalized residential and farm assessment of the property rateable for public school purposes in each such combined area and in the remainder, if any, of such combined municipalities, bears to the total equalized residential and farm assessment of the property rateable for public school purposes in the combined municipalities; and

(*b*) where the remainder of a county municipality is to be represented by two or more members, subsections 21 and 22 apply *mutatis mutandis* in respect of such remainder.

Appeal from determination under subs. 10

(11) Where the determination made under subsection 10 apportions to a combined area or to the remainder of the combined municipalities a percentage of the total number of members to be elected by the public school electors of the combined municipalities as determined under subsection 9 that differs by more than five percentage points from the percentage that the equalized residential and farm assessment of the property rateable for public school purposes in the combined area or the remainder of the combined municipalities, as the case may be, is of the total equalized residential and farm assessment of the property rateable for public school purposes in the combined municipalities, the council of a municipality all or part of which is in the combined area or part of which forms such remainder, as the case may be, may, within fifteen days after such determination has been made, appeal the determination to the judge who

shall either reapportion the number of members in accordance with clause *a* of subsection 10 or, where he determines that the determination was made in accordance with such clause, confirm the determination, and his decision is final. 1972, c. 75, s. 11 (7).

When determination to be made

(12) The determination under subsection 9 shall be made before the 1st day of September, and the determination under subsection 10 may be made before the 15th day of September, in each year in which an election is to be held if,

(*a*) a determination is made in accordance with subsection 7; or

(*b*) the boundaries of one or more county or district municipalities have been altered subsequent to the latest determination under subsection 9, or are to be altered effective the 1st day of January next following the election; or

(*c*) the boundaries of the school division are altered, or are to be altered effective the 1st day of January next following the election. R.S.O. 1970, c. 425, s. 38 (10); 1972, c. 75, s. 11 (8); 1973, c. 91, s. 3 (2).

Where judge to make determination

(13) Where the determination under subsection 9 is not made before the 1st day of September, the clerk of the county municipality or of the organized district municipality, as the case may be, having the greatest equalized residential and farm assessment for public school purposes in the school division, shall refer the matter to the judge who shall make the determination before the 1st day of October in accordance with subsection 14, and where, for any reason, the determination is not made before the 1st day of October, the election shall proceed on the basis of the latest determination. 1972, c. 75, s. 11 (9), *amended*.

Determination

(14) In determining under subsection 9,

(*a*) the number of members to be elected by the public school electors of a county or district municipality; or

(*b*) the county or district municipalities that are to be combined for the election of one or more members by the public school electors of such municipalities,

the council of the county or the clerks of the district municipalities, or the clerks of the county municipalities in a school division in a regional municipality, as the case may be, shall apportion the number of members determined under clause

b of subsection 6, as nearly as is practicable, in the proportion that the equalized residential and farm assessment of the property rateable for public school purposes in the municipality or combined municipalities bears to the total equalized residential and farm assessment of the property rateable for public school purposes in all the county or district municipalities in the school division and shall, in so far as it is practicable to do so, combine municipalities that are adjoining.

Idem

(15) Notwithstanding subsection 14, where the equalized residential and farm assessment of the property rateable for separate school purposes in a school division in a territorial district is less than 5 per cent of the equalized residential and farm assessment of all the rateable property in the school division, and where the equalized residential and farm assessment of the property rateable for public school purposes in a district municipality, expressed as a percentage of the total residential and farm assessment of all such property in the district municipalities in the school division, differs by fifteen or more percentage points from the population of such municipality expressed as a percentage of the total population of all the district municipalities comprising the school division, the clerks of the district municipalities shall apportion the number of members determined under clause *b* of subsection 6, as nearly as is practicable, in the proportion that the population of a district municipality or combination of district municipalities bears to the total population of all the district municipalities comprising the school division, and the right of appeal as provided in subsection 16 applies, but shall be based upon population rather than equalized residential and farm assessment.

Appeal from determination

(16) Where the determination made under subsection 9 allots to a municipality or to a combination of municipalities a percentage of the total number of members to be elected by the public school electors of all the county or district municipalities in the school division that differs by more than five percentage points from the percentage that the equalized residential and farm assessment of the property rateable for public school purposes in the municipality or combination of municipalities is of the total equalized residential and farm assessment of the property rateable for public school purposes in all the county or district municipalities in the school division, the council of the municipality or the council of any one of such combination of municipalities, as the case may be, may, within fifteen days after notice of the determination has been sent, appeal the determination to the judge who shall either reapportion the number of members in accordance with subsection 14 or, where he determines that the determination was made in accordance with subsection 14, confirm the determination, and his decision is final.

Information for determination

(17) The clerk of each city and of each county municipality, district municipality or regional municipality in a school division and the chief executive officer of the divisional board shall provide to the persons required to make a determination under this section, on their request, the information required for such purpose. R.S.O. 1970, c. 425, s. 38 (12-15), *amended*.

By whom determination to be made

(18) The determinations required to be made under subsections 2, 4, 5, 6 and 24 shall be made in respect of a school division,

(*a*) in a county or in a county and part of a regional municipality, by the clerk of the county;

(*b*) entirely in a regional municipality, by the clerk of the regional municipality;

(*c*) in the territorial districts,

(i) by the clerk of the organized district municipality, or

(ii) where the school division does not include an organized district municipality, by the clerk of the city,

that has the greatest equalized residential and farm assessment for public school purposes in the school division,

and the clerk who makes such determinations shall send by registered mail to the clerk of each city and of each county or district municipality in the school division and to the secretary of the divisional board,

(*d*) before the 1st day of September in each year in which it is determined under subsection 3 that the number of members of the divisional board should be increased or decreased or in which a determination is made under subsection 9 or 25, a copy of each of the determinations made under subsections 2, 4, 5, 6, 9, 24 and 25; and

(*e*) before the 1st day of October in each year in which a determination is made by the judge under subsection 13 or 25, a copy of the determination. R.S.O. 1970, c. 425, s. 38 (16); 1972, c. 75, s. 11 (10); 1972, c. 136, s. 4, *amended*.

Questions to be determined by judge

(19) The council of any municipality concerned and a divisional board on behalf of any territory without municipal organization that is deemed a district municipality may, within ten days of the mailing of the determination made under subsection 4, 5, 6 or 24, appeal to the judge with respect to the accuracy of the determination, and his decision is final, and the clerk responsible for making such determination shall make such changes in such determination as the judge requires.

New determination where former determination improper

(20) Where the council of a municipality or a divisional board on behalf of any territory without municipal organization that is deemed a district municipality, after the period allowed for an appeal under this section and notwithstanding a decision made in respect of such appeal, is of the opinion that the composition of the board of a school division was not determined in accordance with the provisions of this section, the council or the board may, before the 1st day of May in the year of the next following election, apply to the judge to have the determination set aside and, where the judge finds that the determination was not made in accordance with the provisions of this section, he shall order a new determination to be made, and the determination so made, subject to an appeal under subsection 16 or 19, shall apply to the election next following such determination, and the divisional board in respect of which the application to the judge is made shall be deemed to have been properly constituted notwithstanding any defect in its composition.

Election by public school electors and by separate school electors

(21) The number of members to be elected in a municipality shall be elected by a general vote of the public school electors or separate school electors, as the case may be, in the municipality, provided that, where it is determined under this section that the number of members to be elected to the divisional board by the public school electors in a municipality or by the separate school electors in a municipality is two or more, the council of the municipality may, by by-law, divide the municipality into two or more areas and provide for the election of one or more of such members by the public school electors or separate school electors, as the case may be, in each of such areas. R.S.O. 1970, c. 425, s. 38 (17-19).

Time for passing by-law

(22) A by-law for the purpose mentioned in subsection 21 and a by-law repealing any such by-law shall not be passed later than the 1st day of October in the year of the election and shall take effect for the purpose of the election next after the passing of the by-law and remain in force until repealed. R.S.O. 1970, c. 425, s. 38 (20), *amended*.

Election by public school electors in county and district municipalities

(23) Where two or more county or district municipalities are combined for the election of one or more members, such member or members shall, except where a determination is made under subsection 10, be elected by a general vote of the public school electors of the combined municipalities, and where, under subsection 10 or 11, a portion of a county municipality is attached to one or more other county municipalities for the election of one or two members or the remainder of the combined municipalities comprises parts of two or more municipalities, the number of members apportioned thereto shall be elected by a general vote of the public school electors of such combined area or remainder, and,

(*a*) the nominations in each case shall be submitted to the returning officer of the municipality having the greatest equalized residential and farm assessment for public school purposes of any municipality all of which is in the area for which the member or members are to be elected, who shall send to the clerk of each municipality concerned, by registered mail within forty-eight hours after the closing of nominations, the names of the candidates who have qualified; and

(*b*) the clerk of each municipality shall be the returning officer for the vote to be recorded in his municipality and he shall report forthwith the vote recorded to the returning officer referred to in clause *a*, who shall prepare the final summary and announce the result of the vote. 1972, c. 75, s. 11 (11).

Number of members to be elected by separate school electors in cities and county or district municipalities

(24) Where a school division includes one or more county or district municipalities and one or more cities, and the number of members to be elected by the separate school electors under subsection 5 exceeds one, the number of members to be elected by the separate school electors of each city and of the county or district municipalities shall be determined in accordance with subsections 6, 7 and 8, which subsections apply *mutatis mutandis*, except that the equalized residential and farm assessment of the separate school supporters shall be used in the determinations.

Distribution of members to be elected by separate school electors

(25) Where it is determined under subsection 5 or 24 that the number of members to be elected by the separate school electors of the county or district municipalities in the school division exceeds one, the county or district municipalities to be represented by each such member shall be determined in accordance with subsections 9, 12, 13, 14 and 16, which subsections apply *mutatis mutandis*, except that,

(*a*) the equalized residential and farm assessments of the separate school supporters shall be used in all the determinations; and

(*b*) the reference in subsection 9 to the clerk of a town or village in which a secondary school is located in the school division shall be deemed to refer only to a town or village that is in a separate school zone. R.S.O. 1970, c. 425, s. 38 (22, 23).

Distribution of members within combined municipalities

(26) Where two or more county municipalities are combined for the election of two or more members to be elected by separate school electors, subsections 10 and 11 apply *mutatis mutandis* to such combination of municipalities except that the equalized residential and farm assessments of the property rateable for separate school purposes shall be used in all the determinations. 1972, c. 75, s. 11 (12).

Election of members by separate school electors

(27) Where the number of members,

(*a*) determined under subsection 5 is one, such member shall be elected by a general vote of the separate school electors of the school division; or

(*b*) to be elected by the separate school electors of the county or district municipalities under subsection 24 is one, such member shall be elected by a general vote of the separate school electors of the county or district municipalities in the school division. R.S.O. 1970, c. 425, s. 38 (24).

Idem

(28) Where,

(*a*) one member is to be elected by a general vote of the separate school electors of a school division or of the separate school electors of the county or district municipalities in a school division; or

(*b*) two or more municipalities are combined for the purpose of the election of one or more members by the separate school electors,

then,

(*c*) the nominations for such member or members shall be conducted by the returning officer of the municipality having the greatest equalized residential and farm assessment for separate school purposes of any municipality all of which is in the area for which the member or members are to be elected who shall send

to the clerk of each municipality concerned, by registered mail within forty-eight hours after the closing of nominations, the names of the candidates who have qualified; and

(*d*) the clerk of each municipality shall be the returning officer for the vote to be recorded in his municipality and he shall report forthwith the vote recorded to the returning officer referred to in clause *c*, who shall prepare the final summary and announce the result of the vote. R.S.O. 1970, c. 425, s. 38 (25); 1972, c. 75, s. 11 (13).

Secretary of board deemed clerk for elections in areas deemed district municipalities

(29) For the purposes of clause *b* of subsection 23 and clause *d* of subsection 28, the secretary of the divisional board of a school division shall be the clerk of each part of territory without municipal organization that is deemed a district municipality in the school division. R.S.O. 1970, c. 425, s. 38 (26).

Elections

(30) The election of members of a divisional board shall be conducted by the same officers and in the same manner as elections of members of the council of a municipality. 1972, c. 75, s. 11 (14).

Effect of boundary change on elections

(31) Where the boundaries of a school division are to be altered effective on the 1st day of January next following the election of members of the board of the school division, the boundaries of the school division shall be deemed to have been so altered for all purposes relating to such election. 1972, c. 136, s. 5.

Qualifications for nominators of candidates

(32) Every nominator of a candidate for the office of a member to be elected,

(*a*) by public school electors, shall be a public school elector; and

(*b*) by separate school electors, shall be a separate school elector. R.S.O. 1970, c. 425, s. 41, *amended*

Boards of Education

Interpretation

58. -(1) In this section and in section 59, "board of education" means a board of education other than a divisional board of education. R.S.O. 1970, c. 425, s. 20.

Establishment and status of board

(2) A board of education may be established in a secondary school district that is not a school division to perform the duties of a secondary school board for the district and the duties of a public school board for the school section or sections situated within the boundaries of the district and, where a board of education is established, subsection 3 of section 53 applies, ***mutatis mutandis***.

(3) The name of a board of education that has jurisdiction in one municipality is "The Board of Education for the .....of....." (*inserting the name of the municipality*). Name of board

(4) The name of a board of education that has jurisdiction in more than one municipality is "The..... Board of Education" (*inserting a name selected by the board and approved by the Minister*). R.S.O. 1970, c. 425, s. 21, *amended*. Idem

(5) A member of a board of education elected by separate school electors or, in the case of a vacancy, by the remaining members elected by separate school electors is a trustee for secondary school purposes only and shall not move, second or vote on a motion that affects public schools exclusively and all other members of a board of education are trustees for public and secondary school purposes. 1971, c. 68, s. 3, *amended*. Members to be trustees

(6) Upon the organization of a board of education, Assets, liabilities, etc.

(*a*) the secondary school board and all public school boards in the secondary school district are dissolved;

(*b*) all the property vested in such boards becomes vested in the board of education; and

(*c*) all debts, contracts, agreements and liabilities for which such boards were liable become obligations of the board of education. R.S.O. 1970, c. 425, s. 22.

59.—(1) Where a board of education is established for one municipality that is not a school division or part of a school division, the members of the board shall be elected as provided in section 55, which section applies *mutatis mutandis*, except that the number of members to be elected by the separate school electors shall be, Composition of boards of education

(*a*) where the population of the municipality is 50,000 or more, not fewer than two; and

(*b*) where the population of the municipality is less than 50,000, not fewer than one. R.S.O. 1970, c. 425, s. 24 (1).

(2) Subsections 30 and 32 of section 57 apply *mutatis mutandis* to the nomination and election of candidates for members of a board of education. *New*. Qualifications for nominators of candidates

District School Area Boards

60.—(1) On and after the 1st day of January, 1975, every school section that is in a territorial district but is not in a school division or designated as a school section under School section to be district school area

section 68 is a district school area, and the board of each such school section is a public school board and shall be known as a district school area board.

Formation and alteration of district school area

(2) In respect of the territorial districts, the Lieutenant Governor in Council may, by regulation, on or before the 1st day of July in any year, to be effective on the 1st day of January next following,

(*a*) form any part thereof that is not in a school section into a district school area;

(*b*) combine two or more district school areas into one district school area;

(*c*) add a part thereof that is not in a school division to a district school area; or

(*d*) detach a portion thereof from one district school area and attach it to another district school area or form it into a new district school area.

Notification of assessment commissioner

(3) Where a district school area is formed or altered under subsection 2, the appropriate provincial supervisory officer shall notify the assessment commissioner concerned.

Effective date for election purposes

(4) Notwithstanding subsection 2, the formation or alteration of a district school area thereunder shall, for all purposes relating to the election of a board, be deemed to be effective on the 1st day of July in the year of such formation or alteration.

Arbitration

(5) Where the boundaries of a district school area are altered in accordance with clause *b* or *d* of subsection 2, the Minister shall, by order, provide for arbitration of the assets and liabilities of the boards concerned.

Name of board

(6) The board of a district school area is a corporation by the name of "The.....District School Area Board" (*inserting a name selected by the board and approved by the Minister*). *New.*

New district school areas

61.—(1) Where a district school area is formed under clause *b* of subsection 2 of section 60, upon the effective date of such formation the existing public school boards in the new district school area are dissolved, and, subject to subsection 5 of section 60,

(*a*) the property vested in such boards is vested in the new district school area board; and

(*b*) all debts, contracts, agreements and liabilities for which such boards were liable become obligations of the district school area board.

Alteration and formation: disposition of assets and liabilities

(2) Where the boundaries of a district school area are altered or a new district school area is formed under clause *d* of subsection 2 of section 60, upon the effective date of such alteration or formation, and, subject to subsection 5 of section 60,

(*a*) all real and personal property of the board situate in the part of the district school area that is detached is vested in the board of the district school area to which such part is attached, or in the board of the new district school area, as the case may be; and

(*b*) all debts, contracts, agreements and liabilities of the board in respect of the part of the district school area that is detached become obligations of the board of the district school area to which such part is attached or of the board of the new district school area, as the case may be. *New*.

Public school elector

62.—(1) In sections 62, 63 and 64, "public school elector" means in respect of territory without municipal organization, owners and tenants of property in such territory without municipal organization, including their spouses who are Canadian citizens or British subjects and of the full age of eighteen years and who are not separate school supporters.

Composition of board

(2) Subject to subsections 3 and 4, a district school area board shall be composed of three members.

Idem

(3) Where a school section that is to become a district school area on the 1st day of January, 1975, has a board of five members, the district school area board shall be composed of five members.

Increase in number of members

(4) Before the 1st day of July of an election year, the board of a district school area that is not an improvement district may, by resolution approved at a meeting of the public school electors, determine that the number of members to be elected shall be increased from three to five and, at the next following election, five members shall be elected.

Election year and term of office

(5) The election of members of the board of a district school area that is not an improvement district shall be held in the year 1974 and in every second year thereafter, and the members shall hold office for a term of two years except that,

new board in "off election year"

(*a*) where a new district school area is formed to take effect on the 1st day of January in the year 1976 or in any second year thereafter the first members of such board shall be elected in the year preceding such 1st day of January and shall hold office for one year; or

idem

(*b*) where the boundaries of a district school area are altered to take effect on the 1st day of January in the year 1976 or in any second year thereafter, a new district school area board shall be elected in the year preceding such 1st day of January, and the members so elected shall hold office for one year. *New*.

Elections and Meetings of Electors

Election date

63.—(1) Except as provided in section 64, a district school area board shall be elected at a meeting of the public school electors held on the first Monday in December in the year of an election at a time and place selected by the board.

Notice of meeting

(2) At least six days before a meeting under subsection 1 or 6, the secretary of the board shall post notice of the meeting in three or more of the most prominent places in the district school area and may advertise the meeting in such other manner as the board considers expedient.

Meeting

(3) Meetings of public school electors shall be conducted in the manner determined by the public school electors present at the meeting by a presiding officer selected by such electors, but the election of members of the board shall be by ballot, and the minutes of the meeting shall be recorded by a secretary selected by such electors.

First meeting

(4) The first meeting for the election of a board of a district school area formed or altered under subsection 2 of section 60 shall be held at a time and place named by a person, designated by the Minister, who shall make the necessary arrangements for the meeting.

Minutes to be sent to Ministry

(5) A correct copy of the minutes of every meeting of the public school electors, signed by the presiding officer and the secretary of the meeting, shall, within ten days after the meeting, be transmitted by the presiding officer to the Ministry.

(6) A special meeting of the public school electors shall be called by the secretary when directed by the board or upon the request in writing of five public school electors of the area, by posting notice of the meeting in three or more of the most prominent places in the district school area, and such notice shall include a clear statement of the date, time, place and objects of the meeting, and the meeting may be advertised in such other manner as is deemed necessary. *New*. Special meetings

(7) If objection is made to the right of a person in territory without municipal organization to vote at a meeting under this section, or at an election under section 64, the presiding officer or the returning officer, as the case may be, shall require the person to make the following declaration: Declaration where right to vote objected to

I, ..., declare and affirm that:

1. I am the owner (*or* tenant) of property in The..... District School Area; *or*, I am the spouse of the owner (*or* tenant) of property in The..... District School Area;

2. I am of the full age of eighteen years;

3. I am a Canadian citizen or British subject;

4. The property in respect of which I claim the right to vote is not assessed to the support of separate schools;

5. I have a right to vote at this election (*or* on the question submitted to this meeting),

and after making such declaration the person making it is entitled to vote. R.S.O. 1970, c. 385, s. 34 (7); 1971, c. 98, s. 4, Sched., par. 27, *amended*.

(8) Subsections 7, 8, 9, 10, 11, 13, 14, 15, 16, 17, 19 and 20 of section 100 apply *mutatis mutandis* to an election under this section. *New*. Election procedures

64.—(1) Notwithstanding section 63, before the 1st day of July in an election year, the board of a district school area may, by resolution approved at a meeting of the electors, determine that the board shall conduct the elections in the same manner as for the members of a divisional board of education, except that the members shall be elected by a general vote of the electors of the district school area and for such purposes subsection 1 of section 51 applies *mutatis mutandis* to the district area board and to the officers of such board. Elections

Idem

(2) The board shall give notice of the determination made under subsection 1 to the electors in the same manner as provided in subsection 7 of section 63.

Idem

(3) Where a district school area comprises,

(*a*) a municipality other than an improvement district;

(*b*) a municipality and territory without municipal organization;

(*c*) all or part of two or more municipalities; or

(*d*) all or parts of two or more municipalities and territory without municipal organization,

the election of the board of such district school area shall be conducted under *The Municipal Elections Act, 1972*, and for the purposes of an election under this section in an improvement district or in territory without municipal organization the secretary of the board shall be the returning officer and shall perform all the duties that are required of a municipal clerk in relation to the election of members of a divisional board. *New*.

1972, c. 95

Powers and duties

65.—(1) The board of a district school area that includes territory without municipal organization shall, for public school purposes and in accordance with the regulations for community recreation purposes, exercise the powers and duties of a municipal council for such territory in respect of levying rates and collecting taxes, and the officers appointed by the board have the same powers and duties as similar officers in a municipality, and the expenses in connection therewith shall be raised by a levy imposed by the board on the property rateable for public school purposes in such territory without municipal organization. R.S.O. 1970, c. 385, s. 38 (1), *part, amended*.

Auditors and financial matters

(2) Subject to subsection 3, the provisions of sections 203, 204, 205 and 206 respecting auditors, debentures, estimates and apportionment apply *mutatis mutandis* in respect of a district school area and to the board thereof. R.S.O. 1970, c. 385, s. 38 (1), *part, amended*.

Rates in municipality

(3) Where a district school area includes a municipality, section 208 applies *mutatis mutandis* to the council of the municipality. *New*.

Debentures

(4) A district school area board in territory without municipal organization may not apply to the Ontario Municipal Board in respect of the issue of debentures for a permanent

improvement until such issue has been sanctioned at a special meeting of the public school electors. 1971, c. 69, s. 3, *amended*.

Collection of taxes

(5) The board of a district school area may appoint a tax collector who has in that part of the district school area that is not a municipality the same powers in collecting the school rate or subscriptions, and is under the same liabilities and obligations and shall proceed in the same manner in the school section, as a township collector in collecting rates in a township. R.S.O. 1970, c. 385, s. 42 (1, 2); 1971, c. 69, s. 4, *amended*.

Return of arrears of taxes in unorganized territory

(6) The collector shall, on or before the 8th day of April in the year following the year in which a school rate becomes due and payable, make a return to the sheriff of the territorial district showing each lot or parcel assessed upon which the school rates have not been fully paid, the name of the person assessed as owner or occupant and the amount of school rates chargeable against the lot or parcel and in arrear at the date of the return with the year for which the rates so in arrear were imposed.

Entry in sheriff's book

(7) The sheriff shall enter in a book to be kept by him for that purpose the particulars furnished by the collector.

Payments of arrears thereafter

(8) The collector shall not receive any payment on account of school rates so in arrear after the expiration of two years from the date when the rates became due, but, in the case of payments made before the expiration of that period, the collector shall forthwith notify the sheriff thereof, and the sheriff shall enter the payment against the proper lot or parcel in the book kept by him.

When arrears to be paid to sheriff

(9) After the expiration of such period, all such arrears are payable to the sheriff, who shall enter all payments in the book kept by him and shall return the amount paid to the treasurer of the board.

Sale of land for arrears

(10) When it appears from the entries in the book kept by the sheriff that any school rate is in arrear for three years from the 31st day of December in the year in which the rate became payable, the sheriff shall proceed to collect the same by the sale of the lands assessed, and the procedure in relation to such sale and the provisions applicable to purchase by the municipality and to the redemption of lands thereafter and to deeds to be given by the sheriff to tax purchasers shall be the same, as nearly as may be, as in the case of the sale of lands for arrears of taxes in organized municipalities, and the board may in such cases exercise the power of purchase conferred upon a municipality.

Where tax arrears procedures of R.S.O. 1970, c. 118 in effect

(11) Where the tax arrears procedures under *The Municipal Affairs Act* are in effect in a district school area, it is not necessary for the collector to furnish to the sheriff any of the information or statements required under this section in respect of tax arrears, and the powers and duties of the sheriff in respect of tax arrears and tax sales do not apply in respect of the school section, and all the powers and duties of the sheriff in respect of tax arrears are vested in the treasurer of the board. R.S.O. 1970, c. 385, s. 42 (3-8), *amended*.

Rates for first year to be levied on current assessment

(12) In the first year that any territory without municipal organization is included in a district school area, the rates for that year shall be levied on the assessment of the property in such territory made for that year. R.S.O. 1970, c. 425, s. 3 (5), *amended*.

District school area to be inactive

66.—(1) Where the number of public school pupils of compulsory school age residing in a district school area is fewer than ten and the board has ceased to operate a school, the Minister may declare the district school area inactive as of the 31st day of December in any year. R.S.O. 1970, c. 385, s. 43 (1); 1973, c. 37, s. 5, *amended*.

Accounts in inactive area

(2) When a district school area is declared to be inactive, the board shall liquidate its assets, settle its accounts and have them audited, and forward to the Ministry the audited statement of accounts, the auditor's report and the balance of the funds for deposit in the Consolidated Revenue Fund.

Board dissolved

(3) If the Minister is satisfied that the board has carried out its duties under subsection 2 he shall dissolve the board and the district school area shall cease to exist as of the date that the district school area was declared inactive under subsection 1.

Records to be forwarded to Ministry

(4) The records of the dissolved board of the district school area shall be filed as the Minister may direct and, for the purposes of this Act, the pupils resident in such area shall be deemed not to reside in a school section. R.S.O. 1970, c. 385, s. 43 (2-4), *amended*.

Certain school sections to cease to exist

(5) Every inactive school section the board of which was dissolved prior to the 1st day of January, 1975 shall cease to exist on the 1st day of January, 1975. *New*.

Closing of school by Minister

(6) Where in any district school area there are for two consecutive years fewer than eight persons between the ages of five and fourteen years residing therein, the Minister may direct that the public school of the area shall no longer remain open, and the school shall thereupon be closed until the Minister otherwise directs. R.S.O. 1970, c. 385, s. 53 (3), *amended*.

Secondary Schools Outside School Divisions in Territorial Districts

67.—(1) The Lieutenant Governor in Council may establish any area in the territorial districts that is not part of a school division as a secondary school district and may discontinue or decrease or increase the area of any such secondary school district and, if any such secondary school district is discontinued, or the area is decreased or increased, the assets and liabilities of the board shall be adjusted or disposed of as determined by the Ontario Municipal Board. R.S.O. 1970, c. 425, s. 2 (1). In territorial districts

(2) Where a secondary school district is established under subsection 1, the Lieutenant Governor in Council may make regulations providing for, Board in territorial districts outside school divisions

(*a*) the formation and composition of a secondary school board;

(*b*) the apportionment of costs within the secondary school district; and

(*c*) the issuing of debentures by the board for permanent improvements,

and the board is a corporation by the name designated by the Lieutenant Governor in Council. R.S.O. 1970, c. 425, s. 3 (1), *amended*.

(3) The board shall exercise the powers and duties of a municipal council for that part of the secondary school district that comprises territory without municipal organization in respect of levying rates and collecting taxes for secondary school purposes, and the officers appointed by the board have the same powers and duties as similar officers in a municipality, and the expenses in connection therewith shall be raised by a levy imposed on the property rateable for secondary school purposes in such territory without municipal organization. R.S.O. 1970, c. 425, s. 3 (2, 4), *amended*. Powers and duties

(4) The provisions of sections 203 and 205 respecting auditors and estimates apply *mutatis mutandis* to the board of a secondary school district established under this section. Auditors and estimates

(5) Where a secondary school district established under this section includes a municipality, section 208 applies *mutatis mutandis* to the council of the municipality. Rates in municipality

(6) Subsections 5 to 12 of section 65 apply *mutatis mutandis* in respect of a secondary school district established under this section and to the board thereof. Collection of taxes

(7) The Lieutenant Governor in Council may establish a board of education for a secondary school district established under subsection 1, in which case the other provisions of this Board of education

section and subsections 5 and 6 of section 58 apply, *mutatis mutandis*, to the board of education for public school purposes and for secondary school purposes. R.S.O. 1970, c. 425, s. 2 (2), *amended*.

Boards on Tax Exempt Land

Public school on Crown lands

68.—(1) Where, in the opinion of the Minister, it is desirable to establish and maintain a public school board on lands held by the Crown in right of Canada or Ontario, or by an agency thereof, or on other lands that are exempt from taxation for school purposes, the Minister may by order designate any portion of such lands as a school section and may appoint as members of the board such persons as he considers proper, and the board so appointed is a body corporate by the name indicated in the order establishing the school section and has all the powers and duties of a divisional board for public school purposes. R.S.O. 1970, c. 385, s. 12 (1, 2), *amended*.

Secondary school on exempt land

(2) Where, in the opinion of the Minister, it is desirable to establish and maintain a secondary school board on lands held by the Crown in right of Canada or Ontario, or by an agency thereof, or on other lands that are exempt from taxation for school purposes, the Minister may by order designate any portion of such lands as a secondary school district, and may appoint as members of the board such persons as he considers proper, and the board so appointed is a corporation by the name indicated in the order establishing the secondary school district and has all the powers and duties of a divisional board for secondary school purposes.

Board of education on exempt land

(3) Where a secondary school district has been designated under subsection 2, the Minister may authorize the formation of a board of education for the district and may provide for the name of the board, its composition and the term or terms of office of the members thereof, and for all other purposes the provisions in respect of divisional boards apply to the board. R.S.O. 1970, c. 425, s. 4, *amended*.

Section not to be included in district school area or school division

(4) No school section or secondary school district designated under this section shall be included in a district school area or a school division. R.S.O. 1970, c. 385, s. 12 (3), *amended*.

Fee payable by non-resident

(5) Where a pupil attends a school that is operated by a board appointed under this section in a centre for the treatment of cerebral palsy, a crippled children's treatment centre, a hospital or a sanatorium and is not a resident pupil of such board, the board of which he is a resident pupil or is qualified to be a resident pupil shall pay to the board that operates the school a fee calculated under the regulations and, where he is not a resident pupil or qualified to be a resident pupil of a board and his cost of education is not payable by the Minister under the regulations, his parent or guardian shall

pay to the board that operates the school a fee fixed by such board, but such fee shall not be greater than the fee calculated under the regulations. R.S.O. 1970, c. 424, s. 72; 1972, c. 77, s. 32 (3), *amended*.

Schools for Trainable Retarded Children

69.—(1) In sections 69 to 78, Interpretation

(*a*) "committee" means an advisory committee on schools for trainable retarded children;

(*b*) "divisional board" means a divisional board of education and includes The Metropolitan Toronto School Board;

(*c*) "local association" means a parent's group that is affiliated with the Ontario Association for the Mentally Retarded and that operates within the area of jurisdiction of the board;

(*d*) "school division" includes the Metropolitan Area as defined in *The Municipality of Metropolitan Toronto Act*. R.S.O. 1970, c. 295

(2) For the purposes of sections 69 to 78, The Metropolitan Toronto School Board shall be deemed to be organized as a divisional board on the 1st day of January, 1969. R.S.O. 1970, c. 425, s. 69, *amended*. Metropolitan Toronto School Board

70.—(1) Subject to subsection 2, every divisional board shall provide adequate accommodation for the trainable retarded children who reside in the school division and shall establish and maintain a school or class for the trainable retarded children who are admitted under section 75. Provision of adequate accommodation

(2) A divisional board may, in lieu of establishing and maintaining a school or class for trainable retarded children, enter into an agreement with another divisional board to provide for the instruction of the trainable retarded children who reside in the school division of the first-mentioned board in a school or class for trainable retarded children under the jurisdiction of the other board and for the payment of fees in respect of such pupils. *New*. Agreement with other divisional board

(3) Where a child referred to in subsection 2 is admitted to or excluded from a school or class for trainable retarded children by the admissions board of the divisional board Admission deemed decision of sending board

that operates the school or class, such admission or exclusion shall be deemed to be a decision of an admissions board for the board of the school division in which the child resides. R.S.O. 1970, c. 425, s. 73, *part*.

Right to attend school

71.—(1) Subject to section 75, a trainable retarded child whose parent or guardian resides in a school division has the right to attend a school or class for trainable retarded children established by the board of the school division or provided under an agreement made under subsection 2 of section 70.

Admission of other children

(2) Subject to section 75, a divisional board may admit to a school for trainable retarded children operated by the board a child who does not have the right to attend such school under subsection 1. R.S.O. 1970, c. 425, s. 77 (1, 2), *amended*.

Advisory committee

72.—(1) A divisional board shall establish an advisory committee on schools for trainable retarded children.

Composition

(2) The committee shall consist of six members, of which,

(*a*) three shall be appointed by the divisional board from among its members; and

(*b*) three shall be appointed by the local association, or where there is more than one local association, three shall be appointed at a joint meeting of the associations concerned or, where there is no local association, three who are not members of the board shall be appointed by the board.

Qualifications of members

(3) The members of the committee appointed by the local association or associations shall have the qualifications required for the members of the divisional board.

Term of office

(4) The members of the committee shall hold office until the expiry of the term for which the members of the divisional board were elected.

Vacancies

(5) Every vacancy on a committee occasioned by death, removal or other cause shall be filled by appointment by the divisional board or the local association or associations, as the case may be, of some qualified person, and every person so appointed shall hold office for the unexpired portion of the term of the member whose office has become vacant. R.S.O. 1970, c. 425, s. 73, *amended*.

Allowance

(6) The divisional board may pay to each member of the committee who is not a member of the divisional board an allowance in accordance with subsection 1 of section 164,

except that the maximum allowance shall be based upon the enrolment in schools or classes for trainable retarded children and subsection 5 of the said section 164 applies *mutatis mutandis* to such member. R.S.O. 1970, c. 425, s. 73 (6).

Quorum

73.—(1) A majority of the members of the committee is a quorum, and a vote of a majority of the members present at a meeting is necessary to bind the committee.

Chairman

(2) The members of the committee shall, at their first meeting, elect one of themselves as chairman who shall preside at all meetings and, if at any meeting the chairman is not present, the members present may elect a chairman for that meeting.

Chairman voting

(3) On every motion, the chairman may vote with the other members of the committee, and any motion on which there is an equality of votes is lost.

Personnel and services available to committee

(4) The divisional board shall make available to the committee such personnel and services as the divisional board considers necessary for the proper functioning of the committee. R.S.O. 1970, c. 425, s. 74.

Powers of committee

74.—(1) The committee may make recommendations to the divisional board relating to matters affecting the establishment and development of programs, services and facilities in respect of trainable retarded children.

Right of committee to be heard

(2) Before making a decision on a recommendation of the committee, the divisional board shall provide an opportunity for the committee to be heard before the board and before any committee thereof to which the recommendation is referred. R.S.O. 1970, c. 425, s. 75, *amended*.

Admission or exclusion by admissions board

75.—(1) A child may be admitted to or excluded from a school or class for trainable retarded children operated by a divisional board only upon the decision of an admissions board consisting of,

(*a*) the principal in charge of the school or class for trainable retarded children;

(*b*) a legally qualified psychiatrist or other legally qualified medical practitioner appointed by the board;

(*c*) a supervisory officer designated by the divisional board that operates the school or, where such divisional board has not appointed a supervisory officer, a provincial supervisory officer designated by the Minister; and

(*d*) where all or part of the municipality in which the school is located is in a separate school zone, a supervisory officer designated by the separate school board having jurisdiction in such zone and, where such separate school board has not appointed a supervisory officer, a provincial supervisory officer designated by the Minister,

and the divisional board shall establish the procedures to be followed by the admissions board in respect of admission to or exclusion from a school or class for trainable retarded children, but such procedures shall provide for the parent or guardian of the child to make representations to the admissions board. R.S.O. 1970, c. 425, s. 77 (6); 1973, c. 91, s. 6, *amended*.

Chairman of admissions board

(2) The principal of the school to which the child seeks admission shall be the chairman of the admissions board. R.S.O. 1970, c. 425, s. 77 (7).

Operation of school for trainable retarded in Moosonee

76.—(1) The board of the district school area that was formerly School Section No. 1 of the unorganized Township of Moose in the Territorial District of Cochrane, may, with the approval of the Minister, establish and operate a school or class for trainable retarded children and, except as otherwise provided in this section, sections 70, 71, 72, 73, 74, 75, 77 and 78 apply *mutatis mutandis* in respect of such school or class.

Advisory committee

(2) Notwithstanding subsection 2 of section 70, the board that operates a school or class for trainable retarded children under subsection 1 shall establish an advisory committee for trainable retarded children consisting of,

(*a*) two members appointed by such board from among its members;

(*b*) one member appointed by the board of the Roman Catholic Separate School Board No. 1 of the Township of Moose in the Territorial District of Cochrane from among its members; and

(*c*) two members appointed by the local association or, where no local association has been established, two members appointed by the board that operates the school or class, who shall not be members of such board. 1972, c. 136, s. 6, *amended*.

Fees for non-resident pupils

77.—(1) Where a divisional board provides instruction in a school or class for trainable retarded children for a pupil whose parent or guardian does not reside in the school division, the board of the school division or secondary school district

in which his parent or guardian resides, shall pay to the divisional board on behalf of the pupil a fee calculated in accordance with the regulations.

Fees where residence in school section and separate school zone

(2) Where a divisional board provides instruction in a school or class for trainable retarded children for a pupil whose parent or guardian does not reside in a school division or a secondary school district but does reside in a school section or in a separate school zone, the board of the school section or separate school zone of which the parent or guardian is a supporter shall pay to the divisional board on behalf of the pupil a fee calculated in accordance with the regulations.

Admission of child resident on tax-exempt lands

(3) Where a child is admitted to a school or class for trainable retarded children but his parent or guardian is resident on lands that are exempt from taxation for school purposes and that have been designated by the Minister as a school section for which a board has been appointed under subsection 1 of section 68 or that have been designated a secondary school district for which a board has been appointed under subsection 2 of section 68, the board shall pay to the divisional board a fee calculated in accordance with the regulations. R.S.O. 1970, c. 425, s. 78, *amended*.

Boarding of pupils where daily transportation impracticable

78.—(1) Where a pupil resides in a school division with his parent or guardian in a residence from which daily transportation to a school or class for trainable retarded children that he has a right to attend is impracticable due to distance or terrain as certified by the appropriate supervisory officer of the school division in which the pupil resides, the board of the school division in which his parent or guardian resides may reimburse the parent or guardian at the end of each month for the cost of providing for such pupil, board, lodging, and transportation once a week from his residence to the school or class and return, in an amount set by the board for each day of attendance as certified by the principal of the school or class for trainable retarded children that the pupil attends.

Idem

(2) Where a pupil resides in a school section or in a separate school zone, but not in a school division, with his parent or guardian in a residence from which daily transportation to the school or class for trainable retarded children that he attends is impracticable due to distance or terrain as certified by the supervisory officer who has jurisdiction in the school section or separate school zone, the board of the school section or of the separate school zone of which his parent or guardian is a supporter may reimburse the parent or guardian at the end of each month for the cost of providing for such pupil, board, lodging, and transportation once a week from his residence to the school or class and return, in an amount set by

the board for each day of attendance as certified by the principal of the school or class for trainable retarded children that the pupil attends.

Idem

(3) Where a pupil resides in a territorial district, but not in a school division, school section or separate school zone, with his parent or guardian in a residence from which daily transportation to the school or class for trainable retarded children that he attends is impracticable due to distance or terrain as certified by the supervisory officer of the divisional board of the school that he attends, the divisional board may reimburse the parent or guardian at the end of each month for the cost of providing for such pupil, board, lodging, and transportation once a week from his residence to the school or class and return, in an amount set by the board for each day of attendance as certified by the principal of the school or class for trainable retarded children that the pupil attends. R.S.O. 1970, c. 425, s. 79, *amended*.

Certification of attendance

(4) For the purpose of certifying attendance under subsections 1, 2 and 3, the principal may add to the number of days of attendance of a pupil the number of days the pupil is absent by reason of being ill or is absent for any other cause if the principal is of the opinion that the absence was unavoidable. R.S.O. 1970, c. 424, s. 42 (8-14), *amended*.

PART IV

ROMAN CATHOLIC SEPARATE SCHOOLS

Application of Part

79. This Part applies to separate schools for Roman Catholics now or hereafter established and shall have the same effect as if this Part were a special Act respecting separate schools for Roman Catholics. R.S.O. 1970, c. 430, s. 16, *amended*.

Zones

Boundaries of zones

80.—(1) The boundaries of separate school zones shall be determined in relation to their centres.

Centre of zone

(2) Where a board operates a separate school, the centre of the separate school zone is the most northern corner astronomically of the site of the separate school provided that, where the most northern boundary of the site has a bearing due west astronomically, the corner of the site at the western extremity of the most northern boundary is the centre.

Centres where two or more schools

(3) Where a board operates two or more separate schools, there shall be a centre for each school.

(4) Where a board does not operate a school but owns one parcel of land, for the purpose of determining the centre of the separate school zone, the board shall be deemed to operate a school on such parcel of land.

Centre where board owns land but does not operate school

(5) Where a board does not operate a separate school or own a parcel of land, a parcel of land approved by the supporters for the purpose of determining the centre of the zone shall be deemed to be the site of a separate school for such purpose, and the board shall notify the Minister, the clerks of the municipalities concerned and the chief executive officers of the divisional boards or the secretaries of public school boards affected, before the 30th day of September of the year in which the parcel was so approved.

Centre where board does not operate school or own site

(6) The centres of a combined separate school zone are the centres determined in respect of each school site on which a school is operated and include the centre of each former zone that became part of the combined separate school zone and in which a separate school is not operated.

Centres of combined zone

(7) Subject to section 82, every parcel of land that is wholly or partly within a radius of three miles from a centre of a separate school zone is within the zone.

Rural and combined separate school zone

(8) Subject to section 82, where a separate school board is established in an urban municipality, the urban separate school zone includes the urban municipality and any parcel of land that is within,

Urban separate school zone

(*a*) a township; or

(*b*) an urban municipality in which a separate school zone has not been established,

and that is within a radius of three miles from a centre in the urban municipality.

(9) A separate school zone, except a combined separate school zone, shall not include land in a municipality as well as land in territory without municipal organization. R.S.O. 1970, c. 430, s. 54 (1-8, 10), *amended*.

Zones not to include organized and unorganized territory

81.—(1) For each separate school zone that includes part or all of a township or territory without municipal organization, the appropriate separate school supervisory officer shall,

Maps and descriptions of zones

(*a*) prepare maps of each township in which part or all of a separate school zone is located showing the boundary of each separate school zone therein or partly therein;

(*b*) describe each zone by indicating the name of the board, the centre of the zone, and the municipalities wholly or partly within the zone;

(*c*) where the boundary of a zone is altered, prepare a revised map and description;

(*d*) sign and date the original maps and description of each zone and retain them on file; and

(*e*) furnish,

(i) to each separate school board, a map or description of its zone,

(ii) to the township clerk and assessor or assessment commissioner, a map showing the zone boundaries and a description of each zone, and

(iii) to the chief executive officer of a divisional board or the appropriate supervisory officer for a public school board affected, a description of each separate school zone within the area of his jurisdiction.

Establishment of separate school in a portion of rural section

(2) Where a separate school has been established in a school section that includes an urban municipality or a portion of an urban municipality, and a township or a portion of a township, and a majority of the ratepayers assessed as separate school supporters in the township or portion of a township petition the board of the separate school to notify the supervisory officer of separate schools that the separate school supporters in the township or portion of a township are desirous of establishing a separate school therein, the supervisory officer may signify in writing to the board his approval of the establishment of the separate school, and thereupon a meeting may be held for the establishment of a separate school and the election of trustees, and the school may be established and trustees may be elected in the manner provided in section 83.

Arbitrate assets and liabilities

(3) Where a separate school zone is established and the boundaries of adjoining separate school zones are thereby altered, the board concerned shall, in the manner provided in subsection 5, appoint a board of arbitrators who shall determine the assets and liabilities of the boards and the amounts, if any, that shall be paid by one board to the other board, and the award of the board of arbitrators is final and binding.

Rates in unorganized territory in combined zone

(4) Where a combined separate school zone includes a former zone in territory without municipal organization and a former zone in a municipality, the combined separate school board is

responsible for the levying and collecting of rates for separate schools in the territory without municipal organization and the board and the council of the municipality may enter into an agreement providing for the officers of the municipality to levy and collect rates for separate schools in such territory without municipal organization. R.S.O. 1970, c. 430, s. 54 (11-13), *amended*.

Constitution of board of arbitrators

(5) The appropriate supervisory officer, a person chosen by the newly established board and a person chosen by each of the separate school boards, the boundaries of which have been altered, shall constitute a board of arbitrators. R.S.O. 1970, c. 430, s. 37 (2), *amended*.

Boundaries where zones overlap

82.—(1) Where two or more separate school zones would otherwise overlap in a township or in territory without municipal organization, the appropriate supervisory officers shall, after they have consulted with the boards involved, determine a boundary between each of the zones in the township or territory. R.S.O. 1970, c. 430, s. 55 (1).

Failure to make determination

(2) Where more than one supervisory officer is involved in the determination under subsection 1, and the supervisory officers fail to make a determination, the matter shall be referred to the judge by the board concerned that has the greatest equalized assessment for separate school purposes. *New*.

When alteration effective

(3) A boundary in the overlapping area may be altered before the 1st day of July in any year, and such alteration shall be effective on the 1st day of January of the following year, except that, for the purposes of the election of trustees, it shall be deemed to be effective on the day of nomination for trustees.

Appeal

(4) A separate school board or a separate school supporter affected by the determination of the supervisory officer may appeal the determination to the judge before the 1st day of August following the determination.

All parts of zone to be adjoining

(5) The boundaries of a separate school zone as determined by the supervisory officer or altered by a judge shall follow one continuous line so that all parts of the zone are adjoining.

Effect of change in boundaries

(6) Where a change in the boundary of a separate school zone under this section results in the transfer of a parcel of land from one zone to another zone, the taxes levied and collected for separate school support in respect of such parcel of land, in the year following the determination by the supervisory officer or judge, shall be paid to the separate

school board of the zone to which the parcel of land is transferred. R.S.O. 1970, c. 430, s. 55 (2-5).

Formation and Discontinuance of Zones

Meeting to establish separate school zone

83.—(1) Not fewer than five heads of families, being Roman Catholics and being householders or freeholders resident within a city, town, village, or a six-mile square area in one or more townships and not within an area designated by the regulations made under subsection 2 of section 103, may convene a public meeting of persons desiring to establish a separate school zone with centre therein. 1972, c. 76, s. 3, *amended*.

Procedure

(2) Where such a meeting is held, the persons present shall,

(*a*) elect a chairman and a secretary for the meeting;

(*b*) pass a motion determining the centre of the separate school zone to be established;

(*c*) where the zone to be established is in one or more townships, subject to clause *b* of subsection 5, select a name for the board;

(*d*) elect the required number of trustees; and

(*e*) require the chairman of the meeting to transmit notice in writing of the holding of the meeting and of the election of trustees to the clerks of the municipalities and to the chief executive officer of the divisional board or the secretary of the public school board, as the case may be, for the area in which the separate school zone is to be established designating by name and residence each of the persons elected as trustees. R.S.O. 1970, c. 430, s. 20 (1); 1972, c. 76, ss. 4 (1), *part*, 28, *part*, *amended*.

Certification

(3) Each of the officers receiving the notice shall certify thereon the date of its receipt, and shall transmit a copy of the notice so certified to the chairman of the meeting. *New*.

Notification

(4) The chairman of the meeting shall forthwith transmit the copy of the certified notice, a copy of the minutes of the meeting, and of the notice calling it, to,

(*a*) the Minister; and

(*b*) the appropriate assessment commissioner. 1972, c. 76, s. 4 (1), *part*, *amended*.

Corporate name

(5) On and after the transmission to the Minister of the

documents referred to in subsection 4, the separate school zone is established and the trustees named therein are a body corporate under the name,

(*a*) in the case of a city, town, or village, "The..... Roman Catholic Separate School Board" (*inserting the name of the city, town, or village, as the case may be*); or

(*b*) in the case of a portion of one or more townships, "The.....Roman Catholic Separate School Board" (*inserting the name selected under clause c of subsection 2 and approved by the Minister*). R.S.O. 1970, c. 430, s. 21 (3), *amended*.

In urban municipalities in wards

(6) Where a meeting is convened to establish a separate school in an urban municipality that is divided into wards, unless at such a meeting a motion is passed to elect trustees by wards in accordance with section 91, the trustees shall be elected by general vote. R.S.O. 1970, c. 430, s. 20 (2).

Formation not rendered invalid by reason only of vacancy in office of trustee

(7) The formation of a separate school is not rendered invalid by reason only of a vacancy in the office of a trustee occurring before the trustees become a body corporate, provided that the vacancy is filled forthwith and the Minister is provided with the information required under clause *e* of subsection 2 in respect of the filling of the vacancy.

Roman Catholic deemed separate school elector

(8) For the purpose of qualifying to be elected as a trustee at a meeting to establish a separate school zone, a Roman Catholic who is otherwise qualified under subsection 1 of section 192 is deemed to be a separate school elector. *New*.

New zone in unorganized territory

84.—(1) Not fewer than,

(*a*) ten heads of families; or

(*b*) where the zone is to be united, effective on the 1st day of January in the following year, with one or more separate school zones to form a combined separate school zone, five heads of families,

being Roman Catholics and being householders or freeholders resident within territory without municipal organization that is not within an area designated by the regulations made under subsection 2 of section 103 may convene a public meeting of persons desiring to establish a separate school zone therein, and the provisions of subsections 2, 3, 4 and 8 of section 83 apply *mutatis mutandis*.

Corporate name

(2) On and after the transmission to the Minister of the documents referred to in subsection 4 of section 83, the

separate school zone is established and the trustees named therein are a body corporate under the name of, "The .....Roman Catholic Separate School Board" (*inserting the name selected under clause c of subsection 2 of section 83 and approved by the Minister*).

Powers of trustees

(3) The trustees elected at a meeting convened under subsection 1 have all the powers of a public school board in territory without municipal organization and are in all other respects subject to the provisions of this Act that apply to rural separate school boards.

Where school not united

(4) Where in any year a separate school zone is established by not fewer than five heads of families under clause *b* of subsection 1, the public meeting for the election of trustees shall be held before the 1st day of June in that year, and the only powers and duties of the separate school board so formed are to proceed in the same year to implement the provisions of section 87, and if the separate school zone is not united with one or more separate school zones to form a combined separate school zone before the 1st day of August in that year under section 87, the board is dissolved on that date. R.S.O. 1970, c. 430, s. 22 (1-3); 1972, c. 76, s. 5, *amended*.

Right to vote in year of establishment of zone

85. A Roman Catholic who is a householder or freeholder and of the full age of eighteen years and who desires to establish a separate school zone under section 83 or 84 is entitled, in the year in which the separate school zone is established, to vote on any matter relating to such separate school if,

(*a*) in the case of a separate school zone in one or more townships or in territory without municipal organization, he resides in the separate school zone; or

(*b*) in the case of an urban municipality, he resides in the municipality. R.S.O. 1970, c. 430, s. 24; 1971, c. 98, s. 4, Sched., par. 31, *amended*.

Legislative grants

86. On receipt by the Minister of the documents required under section 83 or 84 that a separate school zone has been established and suitable accommodation provided for school purposes, the Minister may pay to the board out of the appropriation made by the Legislature for public and separate schools such sums as may be approved by the Lieutenant Governor in Council. R.S.O. 1970, c. 430, s. 22 (4), *amended*.

Formation of combined separate school zones in non-designated areas

87.—(1) A separate school board or five supporters of a separate school that is not within an area designated by the regulations made under subsection 2 of section 103 may,

before the 1st day of July in any year, hold a meeting of the supporters of such separate school to consider the question of uniting the separate school zone with one or more other separate school zones in such area to form a combined separate school zone and, where the majority of such supporters present at each such meeting who vote on the question, vote in favour of the union and of the adjustments referred to in subsection 2, each such board shall give notice of the decision, before the 1st day of August of the same year, to the Minister, the clerks of the municipalities affected, and the appropriate municipal assessors, and the combined separate school zone thus formed shall be deemed to be one zone for all Roman Catholic separate school purposes on the 1st day of January of the following year, except that, for the purposes of the election of trustees, it shall be deemed to be one zone on the day of nomination for trustees of the combined separate school board.

Adjustment of rights

(2) In order to adjust the rights and claims of the combining boards, the supporters of any school may offer to assume and may assume a differential in rates for a stated period of time.

Dissolution of boards

(3) When a combined separate school zone is formed, the board of each zone forming part of the union is dissolved, and all the real and personal property vested in such board is vested in the board of the combined separate school zone.

Corporate name of trustees

(4) The trustees of a combined separate school board are a corporation by the name of "The.....Combined Roman Catholic Separate School Board" (*inserting the name selected by the board and approved by the Minister*). R.S.O. 1970, c. 430, s. 34 (1-4), *amended*.

Detaching school zone from combined school zone

88.—(1) Where, in an area not designated by the regulations made under subsection 2 of section 103, a petition of ten heads of families, being householders or freeholders who are supporters of a combined separate school, to detach a separate school zone from the combined separate school zone is submitted in any year to the combined separate school board, the board shall provide for a vote on the question within ninety days of the receipt of the petition.

Qualified voters detaching a separate school zone from a combined separate school zone

(2) The persons entitled to vote on the question are the supporters of the combined separate school who reside closer to the centre in the portion of the combined separate school zone that it is proposed to detach than any other centre.

When school zone detached

(3) If, before the 1st day of July in any year, a majority of the supporters who are entitled to vote on the question vote in favour of detaching the zone it is detached on the

1st day of January of the following year, except that, for the purposes of the election of trustees, it shall be deemed to be detached on the day of nomination for trustees, and the requisite number of trustees of the separate school zone so detached shall be elected as provided in section 90 or 100, as the case may be.

Adjustment of assets, etc.

(4) Where a zone or zones is or are detached under this section, subsection 5 of section 81 applies *mutatis mutandis*, except that the combined separate school board and the board or boards of the zone or zones detached shall each appoint an arbitrator. R.S.O. 1970, c. 430, s. 35, *amended*.

Discontinuing board by a vote of the supporters

89.—(1) In an area not designated by the regulations made under subsection 2 of section 103, a separate school board or five supporters of such board may, before the 1st day of July in any year, hold a meeting of the separate school supporters to consider the question of discontinuing the separate school board and, where the majority of the supporters vote in favour of discontinuing and fewer than five supporters vote in opposition, the board shall within thirty days notify the Minister, the clerk of each municipality concerned and the secretary of any school board that may be affected thereby and, for assessment purposes, the zone shall be discontinued on the 30th day of September following the meeting.

Other conditions under which a separate school board is discontinued

(2) A separate school board is discontinued on the 31st day of December in any year,

(*a*) if, for any continuous four month period in a school year, after the year in which the board was established, the board,

(i) fails to operate a school, or

(ii) fails to make an agreement with another separate school board for the education of its pupils and fails to provide transportation for the pupils who would otherwise be excused from attendance under clause *c* of subsection 2 of section 20; or

(*b*) if no one is assessed as a separate school supporter in the separate school zone in relation to property in respect of which taxes are to be levied in the following year; or

(*c*) if the supporters fail to elect the required number of trustees in two successive regular elections.

(3) When a board is discontinued under subsection 2, the appropriate supervisory officer for separate schools shall forthwith notify the Minister, the clerks of the municipalities concerned and the secretaries of the public school boards affected thereby.

Settling accounts

(4) The trustees who are in office in the year in which the board is discontinued under this section shall remain in office for the purpose of settling the accounts and outstanding debts of the board and, following an audit by a person licensed by the Ministry of Treasury, Economics and Intergovernmental Affairs as a municipal auditor, shall forward the balance of its funds to the Minister for deposit in the Consolidated Revenue Fund for safekeeping.

Records

(5) The records of a board that has been discontinued under this section shall be filed with the Ministry.

Boundaries to be revised

(6) The boundaries of the zones that are altered as a result of discontinuing a separate school zone shall be revised by the appropriate supervisory officer.

Sale of real property

(7) Where a board that has been discontinued fails to dispose of its real property in the year in which it was discontinued and the appropriate separate school supervisory officer is notified that an offer to purchase the real property has been made, he shall cause notices to be posted to call a meeting of the persons who were supporters in the year in which the board was discontinued to elect three persons who, when elected, are a board for the purpose of selling the property.

Deposit of funds from sale

(8) When the board has sold the real property, it shall, after paying any outstanding debts, forward the balance of the money received from the sale to the Minister for deposit in the Consolidated Revenue Fund for safekeeping.

Re-establishing a board

(9) A separate school board that has been discontinued in any year may, in any subsequent year, be re-established in the manner provided in section 83 or 84, and the funds that were deposited by the board that was discontinued shall be returned to the board. R.S.O. 1970, c. 430, s. 56, *amended*.

Urban Separate Schools

Election of trustees in urban municipalities by general vote

90.—(1) Except as provided in section 91, the trustees of an urban separate school board shall be elected by general vote for a term of two years. R.S.O. 1970, c. 430, s. 38 (1); 1972, c. 76, s. 7.

Number of trustees

(2) The number of trustees on an urban separate school board shall be determined by the population of the municipality as follows, where the population was,

(*a*) less than 10,000, six trustees;

(*b*) 10,000 or more but less than 50,000, eight trustees;

(*c*) 50,000 or more but less than 100,000, ten trustees;

(*d*) 100,000 or more, twelve trustees.

Change in number of trustees

(3) Where it becomes evident from the census of a municipality that the number of trustees on an urban separate school board should be increased or decreased, at the next election of trustees the proper number of trustees shall be elected. R.S.O. 1970, c. 430, s. 38 (2, 3).

Urban municipality divided into wards

91.—(1) An urban separate school board for an urban municipality that is divided into wards may be composed of two trustees for each ward, elected by the separate school electors of that ward for a term of two years. R.S.O. 1970, c. 430, s. 39 (1); 1972, c. 76, s. 8.

Where five or more wards

(2) An urban separate school board for an urban municipality that is divided into five or more wards may be composed of one trustee for each ward, elected by the separate school electors of that ward for a term of two years.

Change from election by wards to general vote

(3) The composition and election of an urban separate school board that is elected as provided in subsection 1 or 2 may be changed to that provided in section 90. R.S.O. 1970, c. 430, s. 39 (2, 3).

Method of changing composition and election of board

92.—(1) The composition and election of an urban separate school board for an urban municipality that is divided into wards may be changed from the composition and election mentioned in any one of the subsections in section 91 to that provided in any other subsection in that section, provided that the resolution of the board for a change has been submitted to the electors of the separate schools of the urban municipality and has received the affirmative vote of a majority of the electors who voted on the resolution.

Election of new board after change

(2) At the election following an affirmative vote of a majority of the separate school electors who voted on the resolution, the proper number of trustees shall be elected, and the trustees then in office shall continue in office until their successors are elected and the new board is organized.

(3) A change in the method of election of an urban separate school board may not be made unless the board has been elected by the existing method for at least the two preceding regular elections. R.S.O. 1970, c. 430, s. 40, *amended*.

Limitation on changing method of election

93.—(1) The election of trustees of an urban separate school board shall be conducted in the same manner as municipal elections. R.S.O. 1970, c. 430, s. 44 (1), *amended*.

Conduct of elections

(2) In urban municipalities every person who is a separate school elector is entitled to vote at the election of trustees of the separate schools. R.S.O. 1970, c. 430, s. 46, *amended*.

Election of trustees, who may vote

94. *The Municipal Elections Act, 1972* applies *mutatis mutandis* to the election of trustees of an urban separate school board, except that the oath to be taken by a voter shall be:

Application and form of oath
1972, c. 95

> You swear that you are the person named (*or* intended to be named) in the list of voters now shown to you (*showing the list to the voter*);
>
> That you are of the full age of eighteen years;
>
> That you are a Roman Catholic separate school elector;
>
> That you have not voted before at this election;
>
> That you have not, directly or indirectly, received any reward or gift and do not expect to receive any for the vote which you tender at this election;
>
> So help you God.

R.S.O. 1970, c. 430, ss. 44 (4) (*e*), 45; 1971, c. 98, s. 4, Sched., par. 31; 1972, c. 76, s. 10 (2), *amended*.

95. Notwithstanding the provisions of this or any other Act, including *The Metropolitan Separate School Board Act, 1953*, a Roman Catholic who is not an owner or tenant as defined in *The Municipal Elections Act, 1972* but who,

Residents other than supporters entitled to vote
1953, c. 119

(*a*) is a Canadian citizen or other British subject;

(*b*) is of the full age of eighteen years; and

(*c*) resides within a separate school zone,

and who wishes to be a separate school elector at an election may cause his name to be entered on the preliminary list of electors of the polling subdivision in which he resides as a separate school elector, and for such purpose is entitled to be enumerated as such and to have entered opposite his name on the preliminary list of electors for the polling subdivision in which he resides that he is a separate school elector and,

where the name of such person appears on the polling list, he shall be deemed to be a separate school elector for the purpose of voting at such election. 1972, c. 76, s. 11.

Where person residing out of urban municipality to vote

96. When a supporter of a separate school in an urban municipality resides outside the municipality, he is entitled to vote in the ward or polling subdivision in which the separate school nearest to his residence is situate. R.S.O. 1970, c. 430, s. 57.

Rural Separate Schools

Trustees' term of office

97.—(1) The board of a rural separate school shall consist of three trustees who, subject to subsection 3, shall be elected in the year 1974 and in every second year thereafter and shall hold office for two years. R.S.O. 1970, c. 430, s. 26, *amended*.

Term of office

(2) All trustees of a rural separate school board who hold office when the new board is organized in the year 1974 shall cease to hold office on the 31st day of December, 1974.

Where first election held in 1975

(3) Where the first election of a newly-established board is held in 1975 or in any second year thereafter, the trustees elected in such year shall hold office for one year. *New*.

Organization and quorum

(4) A majority of the trustees is a quorum, and the board shall be organized by the election of a chairman and by the appointment of a secretary and a treasurer or of a secretary-treasurer. R.S.O. 1970, c. 430, s. 30.

Regularity

(5) No act or proceeding is valid that is not adopted at a regular or special meeting of the board of which notice has been given as required under section 98 and at which at least two trustees are present. R.S.O. 1970, c. 430, s. 31.

Electors, qualifications

(6) Every householder or freeholder of the full age of eighteen years, who is a Canadian citizen or other British subject and who is a supporter of a rural separate school, is entitled to vote at any election for school trustee or on any school question at any annual or special meeting of the supporters of the school. R.S.O. 1970, c. 430, s. 28 (1); 1971, c. 98, s. 4, Sched., par. 31, *amended*.

Idem

(7) Every person who is a Roman Catholic and is the spouse of a supporter of a rural separate school who is entitled to vote under subsection 6, and where elections are held under *The Municipal Elections Act, 1972*, every person who is a separate school elector in the area of jurisdiction of the

1972, c. 95

board of such school, is entitled to vote at the election of trustees of such school and on any question submitted to a meeting of the supporters, except a question involving the selection of a school site or an expenditure for a permanent improvement. R.S.O. 1970, c. 430, s. 28 (2), *amended*.

Duties of rural boards:

98.—(1) It is the duty of every rural separate school board and it has power,

time and place of meetings

(*a*) to appoint the place of each annual school meeting of the supporters of the school, and the time and place of any special meeting for,

(i) filling any vacancy in the board,

(ii) the selection of a new school site,

(iii) the appointment of a school auditor, or

(iv) any other school purpose,

and to cause notices of the time and place and of the objects of such meetings to be posted in three or more public places of the neighbourhood in which the school is situate at least six days before the time of holding the meeting;

annual report

(*b*) to cause to be prepared and read at the annual school meeting a report for the year then ending, containing among other things a summary of the proceedings of the board during the year, together with a full and detailed account of the receipts and expenditures of all school moneys during such year, and signed by the chairman and by one or both of the school auditors. R.S.O. 1970, c. 430, s. 50 (3) (*a*, *c*).

Appointment of auditor by the Minister

(2) Where a rural separate school board neglects or the supporters at an annual or special meeting neglect to appoint an auditor, or an auditor appointed refuses or is unable to act, the Minister, upon the request in writing of any five supporters of the school, may make the appointment. R.S.O. 1970, c. 430, s. 33, *amended*.

Appointment of collector

99.—(1) A separate school board in territory without municipal organization may appoint a person, who may be one of the trustees, to collect the rates imposed upon the supporters of the school or the sums that the inhabitants or others have subscribed or a rate-bill imposed upon any person and may pay to the collector at the rate of not less than 5

and not more than 10 per cent on the money collected by him, and every collector shall give such security as may be required by the board.

Powers and duties of collectors

(2) Every collector has the same powers in collecting the school rate, rate-bill or subscription and is under the same liabilities and obligations and shall proceed in the same manner as a township collector in collecting rates in a township and subsections 6, 7, 8, 9 and 10 of section 65 apply *mutatis mutandis*. R.S.O. 1970, c. 430, s. 22 (5, 6), *amended*.

Annual meeting

100.—(1) A meeting of the supporters of a rural separate school for the purpose of electing trustees and for any other school purpose shall be held annually on the last Wednesday in December or, if that day is a holiday, on the next day following, commencing at the hour of 10 o'clock in the forenoon, or if the board by resolution so directs, at the hour of 1 o'clock or 8 o'clock in the afternoon, at such place as the board by resolution determines or, in the absence of such resolution, at the separate school.

Idem

(2) Where the annual meeting of supporters of the school cannot conveniently be held as provided for in subsection 1, the supporters, at a regular meeting or at a special meeting called for that purpose, may pass a resolution naming another day for the holding of the annual meeting, which shall be held on that day in each year thereafter until some other day is similarly named.

Organization of meeting

(3) The supporters of the school present at the meeting shall elect one of themselves to preside over its proceedings and shall also appoint a secretary who shall record the proceedings of the meeting and perform such other duties as are required of him by this section.

Order of business

(4) The business of the meeting may be conducted in the following order,

(*a*) receiving and dealing with the annual report of the trustees;

(*b*) receiving and dealing with the annual report of the auditors;

(*c*) appointing one or more auditors for the current year;

(*d*) electing a trustee or trustees to fill any vacancy or vacancies; and

(*e*) miscellaneous business.

(5) The presiding officer shall submit all motions to the meeting in the manner desired by the majority, and is entitled to vote on any motion, and, Duties of presiding officer

(*a*) in the case of an equality of votes with respect to the election of two or more candidates, the presiding officer shall provide for drawing lots to determine which of the candidates is elected; and

(*b*) in the case of an equality of votes on a motion, the motion is lost.

(6) Where a poll is demanded by two supporters of the school at a meeting for the election of a trustee, the presiding officer shall forthwith grant the poll. Granting poll and proceedings in case of a poll

(7) Where a poll is granted, the secretary shall enter in a poll book the name and residence of each qualified supporter of the school offering to vote within the time prescribed and shall furnish him, at the time of voting, with a ballot paper on the back of which he has placed his initials, and shall provide a pencil for the marking of the ballot paper. Entries in poll book

(8) Ballot papers shall be pieces of plain white paper of uniform size. Form of ballot paper

(9) A voter shall mark his ballot, Marking of ballot paper

(*a*) in the election of a trustee, by marking the name of the trustee thereon; and

(*b*) on a question, by marking the word "for" or "against" thereon.

(10) Each voter shall mark his ballot paper in a compartment or other place provided for the purpose that is so arranged that the manner in which he marks his ballot is not visible to other persons and shall thereupon fold it so that the initials of the secretary can be seen without opening it and hand it to the secretary who shall, without unfolding it, ascertain that his initials appear upon it and shall then in full view of all present, including the voter, place the ballot in a ballot box or other suitable container that has been placed and is kept upon a table for the purpose. Manner of voting

(11) Every candidate may appoint a person to act as his scrutineer during the election. R.S.O. 1970, c. 430, s. 29 (1-11), *amended*. Appointment of scrutineer

Declaration where right to vote objected to

(12) When an objection is made to the right of a person to vote at an annual or special meeting, either for trustee or upon a school question, the presiding officer shall require the person whose right to vote is objected to to make the following declaration, whereupon the person making the declaration is entitled to vote:

I..... declare,

(*a*) that I am a Roman Catholic and a householder or freeholder assessed to the support of.....; or
(*insert name of board*)

(*b*) that I am a Roman Catholic and the spouse of a supporter of .....; and
(*insert name of board*)

(*c*) that I am of the full age of eighteen years; and

(*d*) that as such supporter or spouse of a supporter I have the right to vote at this meeting.

R.S.O. 1970, c. 430, s. 29 (12); 1971, c. 98, s. 4, Sched., par. 31, *amended*.

When poll shall close

(13) The poll shall not close before noon, but shall close at anytime thereafter when a full hour has elapsed without any vote being polled, and shall not be kept open later than 4 o'clock in the afternoon.

Polling at afternoon meetings

(14) When the meeting is held at 8 o'clock in the afternoon the supporters present may decide by resolution that the polling shall take place forthwith or at 10 o'clock on the following morning, and if it takes place forthwith the poll shall close when ten minutes have elapsed without any vote being recorded.

Counting votes, tie vote

(15) When the poll is closed, the presiding officer and secretary shall count the votes polled for the respective candidates or affirmatively and negatively upon the question submitted, and,

(*a*) in the case of an equality of votes with respect to the election of two or more candidates, the presiding officer shall provide for drawing lots to determine which of the candidates is elected; and

(*b*) in the case of an equality of votes on a motion, the motion is lost.

Declaration of result

(16) In the case of an election of trustees, the presiding officer shall then declare the candidate elected for whom the highest number of votes has been polled, and in case of a vote on a motion he shall declare it carried or lost as the majority of votes is in favour of or against the motion.

(17) A statement of the result of the vote shall be certified by the presiding officer and secretary and in the case of an election of trustees the statement shall be signed by any scrutineers present at the counting of the ballots and a copy thereof shall be delivered to each candidate. Statement of result of poll

(18) A correct copy of the minutes of every meeting, signed by the presiding officer and secretary of the meeting, shall be transmitted forthwith by the secretary to the Ministry. Secretary to transmit minutes to Ministry

(19) If from want of proper notice or other cause any meeting for the election of trustees is not held at the proper time, the appropriate separate school supervisory officer or any two supporters of the school may call a meeting by giving six days notice posted in at least three of the most public places in the locality in which the school is situate. R.S.O. 1970, c. 430, s. 29 (13-19), *amended*. Meetings called in default of first or annual meeting

(20) No election under this section is invalid by reason of non-compliance with the provisions of this section as to the taking of the poll or the counting of the votes, or by reason of any mistake in the use of forms, or of any irregularity, if it appears that the election was conducted in accordance with the principles laid down in this section, and that the non-compliance or mistake or irregularity did not affect the result of the election. R.S.O. 1970, c. 430, s. 47. Validity of election

Combined Separate Schools

101.—(1) Where a combined separate school zone is formed or where another separate school zone is added to or detached from a combined separate school zone, the trustees in office shall retire on the 1st day of January following the election of trustees of the combined separate school zone and, subject to subsection 5, five trustees shall be elected by the supporters of the newly-created or altered combined separate school zone as provided in section 100, who shall hold office for two years and otherwise the provisions of section 97 apply. R.S.O. 1970, c. 430, s. 34 (6), *amended*. Trustees

(2) Every trustee shall continue in office until his successor has been elected and the new board is organized. R.S.O. 1970, c. 430, ss. 34 (7), *part*, 42. Trustee in office until organization of new board

(3) For the purpose of electing the first trustees for a combined separate school zone, the boards of the separate schools forming the combined separate school zone shall, before the 1st day of December, each appoint a person to a committee, which shall arrange for the election of trustees in accordance with section 93 or 100, as the case may be. R.S.O. 1970, c. 430, s. 34 (5), *amended*. First trustees

Trustees in combined separate school zone including urban municipality

(4) Where a combined separate school zone includes one or more urban municipalities, the board shall be composed of the same number of trustees as the separate school board of the urban municipality having the greatest population would have under section 90 and the board shall be deemed to be an urban board and the zone shall be deemed to be an urban combined separate school zone.

Resolution providing for trustees

(5) Notwithstanding subsections 1 and 4, the board of a combined separate school zone may be composed of such number of trustees, not fewer than five or more than nine, representing such municipalities or parts thereof, or separate school zones in territory without municipal organization, within the combined separate school zone as is provided for in a resolution passed by the board, or, in the case of a newly-formed combined separate school zone, by the committee formed under subsection 3, and the board of the combined separate school zone shall be deemed to be an urban separate school board.

Election and term of office

(6) Where a resolution is passed under subsection 5, the trustees shall be elected at large in the areas within the combined separate school zone that they respectively represent, and sections 93, 94 and 95 apply *mutatis mutandis*, provided that, where a municipality is divided into wards, the resolution may provide for representation by wards.

Voters list for areas in combined zone

(7) Where one or more trustees represent two or more municipalities or parts thereof, or two or more municipalities or parts thereof and one or more separate school zones in territory without municipal organization, and the election is conducted under section 93, the provisions of subsection 21 of section 110 apply *mutatis mutandis*.

Copy of resolution to be sent to Minister

(8) The board or committee that passes a resolution under subsection 5 shall forthwith send a copy thereof to the Minister. R.S.O. 1970, c. 430, s. 34 (10-14), *amended*.

Electors' qualifications, urban combined separate school zone

(9) Every person,

(*a*) who resides in an urban municipality in an urban combined separate school zone and is entitled to vote at the election of trustees under section 94; or

(*b*) who resides in a township or territory without municipal organization in an urban combined separate school zone and would be entitled to vote at the election of trustees under section 97 if the combined separate school zone were a rural separate school zone,

is entitled to vote at the election of trustees of the combined separate school zone and on any school question.

(10) Every person who resides in a rural combined separate school zone and is entitled to vote at the election of trustees under section 97 is entitled to vote at the election of trustees of the combined separate school zone and, subject to subsection 7 of section 97, on any school question. R.S.O. 1970, c. 430, s. 34 (16, 17), *amended*. Electors' qualifications, rural combined separate school zone

Duties and Powers of Separate School Boards

102.—(1) It is the duty of a separate school board and it has power, Duties of board:

(*a*) to appoint, where required, one or more collectors of school fees or rate-bills, who may be members of the board, and who shall discharge all duties, have powers similar to those of like officers of a municipality, and be subject to the obligations of and the penalties applicable to such officers; appointment of officers

(*b*) where the board does not appoint a collector, to apply to the municipal council, on or before the 1st day of March in each year, for the levying and collecting of all rates for the support of their schools, and for any other school purposes authorized by this Act to be collected from the supporters of the separate schools under the control of the board; collection of rates

(*c*) to appoint annually on or before the 1st day of December an auditor or auditors; appointment of auditors

(*d*) to lay all the accounts of the board before the auditors, together with the agreements, vouchers, contracts and books in its possession, and to afford the auditors all the information in its power as to the receipt and expenditure of school money; and accounts

(*e*) to exercise all such other powers and perform all such other duties of boards as are applicable to public school boards, except where otherwise expressly provided in this Act. R.S.O. 1970, c. 430, s. 50 (1), *part*; 1971, c. 70, s. 2, *amended*. other powers and duties

(2) A separate school board may establish and maintain programs and courses of study in religious education for pupils in all schools under its jurisdiction. *New*. Religious education

County and District Combined Roman Catholic Separate School Zones

103.—(1) On and after the 1st day of January, 1969 the separate school zones and the former separate school zones that form all or part of a combined separate school zone whose centres are within an area designated by the regulations made under subsection 2 are united to form County and district combined separate school zones

a county or district combined separate school zone, as the case may be.

Regulations

(2) The Lieutenant Governor in Council may make regulations,

(*a*) designating areas in Ontario in which the separate school zones whose centres are within the areas are to be united to form county or district combined separate school zones and designating the names of the areas;

(*b*) altering the boundaries of any such area;

(*c*) respecting any matter necessary or advisable to carry out effectively the intent and purpose of sections 103 to 115. R.S.O. 1970, c. 430, s. 81 (1, 2).

Establishment of boards

(3) A separate school board shall be established for each county and district combined separate school zone, and the trustees of the board shall be elected and the board organized in accordance with sections 110 to 112. R.S.O. 1970, c. 430, s. 84.

Separate school zones established after January 1, 1969

(4) Where the centre of a separate school zone established on or after the 1st day of January, 1969, is within an area designated by the regulations made under subsection 2, the separate school zone shall forthwith become a part of the county or district combined separate school zone in that area. R.S.O. 1970, c. 430, s. 81 (3); 1972, c. 76, s. 27, *amended*.

Meeting to establish separate school zone in designated area

104.—(1) Not fewer than five heads of families, being Roman Catholics and being householders or freeholders resident within a six-mile square area in an area designated by the regulations made under subsection 2 of section 103, may convene a public meeting of persons desiring to establish a separate school zone with its centre therein.

Procedure

(2) Where such a meeting is held, the persons present shall,

(*a*) elect a chairman and a secretary for the meeting;

(*b*) pass a motion determining the centre of the separate school zone to be established; and

(*c*) require the chairman of the meeting to send a copy of the motion to,

(i) the Minister,

(ii) the secretary of the county or district combined separate school board,

(iii) the secretary of the divisional board of education affected, and

(iv) the appropriate assessment commissioner,

and on and after the transmission to the Minister of a copy of the notice calling the meeting, a copy of the motion, and evidence that the persons required to be notified under clause *c* have been so notified, the separate school zone is established and becomes a part of the county or district combined separate school zone.

(3) No trustees shall be elected at the meeting. 1972, c. 76, s. 28, *part, amended*. Trustees not elected at meeting

105. Where a county or district combined separate school board acquires a site under subsection 3 of section 168 and operates a school on such site, a separate school zone having its centre as provided in subsection 2 of section 80 is deemed to have been established under subsection 2 of section 104 on the date on which final approval in respect of the construction or purchase of the school is given by the Minister for the purposes of legislative grant. 1972, c. 76, s. 28, *part, amended*. Zone deemed formed

106.—(1) Where, on and after the 1st day of January, 1971, the boundaries of an area designated by the regulations under subsection 2 of section 103 are altered to include, Arbitration where boundaries of designated areas are altered

(*a*) one or more separate school zones established under section 83; or

(*b*) part or all of one or more separate school zones that form part or all of another county or district combined separate school zone,

each of the boards concerned shall appoint one arbitrator who, subject to subsection 2, shall forthwith value and adjust in an equitable manner the assets and liabilities of the boards affected by the alteration of the boundaries and the decision of the arbitrators is final and binding upon the boards concerned.

(2) Where the number of arbitrators appointed under subsection 1 is an even number, the arbitrators so appointed shall appoint an additional arbitrator. *New*. Appointment of additional arbitrator

(3) Where a majority of the arbitrators appointed under subsections 1 and 2 is unable to reach a decision on any matter, such matter shall be referred by the arbitrators to the judge whose decision is final. R.S.O. 1970, c. 430, s. 86 (5), *amended*. Referral to judge

107.—(1) Where the boundaries of an area designated by the regulations under subsection 2 of section 103 are altered, all lands and premises that, Alteration of boundaries: disposition of assets and liabilities

(*a*) are situate in a municipality or part thereof or territory without municipal organization that is added to the designated area by such alteration;

(*b*) are used as separate schools on the last school day preceding the effective date of such alteration; and

(*c*) immediately prior to the effective date of such alteration are vested in a separate school board,

shall, on and after such effective date, be vested without compensation, but subject to all existing debts, contracts, agreements and liabilities that pertain to such lands and premises, in the county or district combined separate school board for the designated area to which the municipality or part thereof or territory without municipal organization is added, and the separate school boards concerned shall agree upon the disposition of all other property situate upon, or used in connection with, such lands and premises.

Dispute

(2) Any dispute as to the disposition of property under subsection 1 may be referred by one or more of the boards concerned to the Ontario Municipal Board, which shall determine the matters in dispute and its decision is final.

Employment contracts

(3) The employment contract of every employee of a separate school board who, immediately before the effective date of the alteration of the boundaries of an area designated by the regulations under subsection 2 of section 103 was required to perform his duties in a separate school that is vested under subsection 1 in the county or district combined separate school board for such designated area becomes an obligation of such county or district combined separate school board.

Transfer of trustee

(4) Subject to subsection 8, where one or more municipalities are detached from an area designated by the regulations under subsection 2 of section 103 and attached to an adjoining designated area and one trustee of the county or district combined separate school board for the designated area from which the municipality or municipalities are detached resides in one such municipality and was elected by the separate school electors of such municipality, whether or not the municipality was combined with one or more other municipalities for election purposes, such trustee shall, on the effective date of the attaching of the municipality or municipalities cease to be a trustee of the separate school board to which he was elected and shall on such date and for the remainder of his term of office be deemed,

(*a*) to have been elected by separate school electors of the county or district combined separate school board for the designated area to which the municipality in which he resides is attached; and

(*b*) to represent on such board the separate school electors of the municipality in which he resides and of the other municipality or municipalities, if any, that were combined therewith for election purposes under subsection 8 of section 110 at the time of his election and that are also attached to such designated area,

and for such period the municipality or combined municipalities so attached shall be deemed to have been determined under subsection 8 of section 110 as a municipality or combination of municipalities, as the case may be, to be represented by one trustee.

Number of trustees reduced

(5) Where one or more municipalities are detached from an area designated by the regulations under subsection 2 of section 103 and the number of trustees of the county or district combined separate school board for such area is reduced pursuant to subsection 4, for the remainder of the term of the board the number of trustees who remain on the board shall be deemed to be the number determined under subsection 2 of section 110.

Trustee to represent transferred area

(6) Subject to subsection 8, where a municipality or part thereof or territory without municipal organization is detached from an area designated by the regulations under subsection 2 of section 103 and attached to an adjoining designated area or area of jurisdiction of an urban separate school board, on the effective date thereof and for the remainder of the term of office of the separate school board for the area that is enlarged, the separate school electors in such municipality or part or territory without municipal organization shall be represented by the trustee or trustees of the separate school board last elected in,

(*a*) the municipality, combination of municipalities or part or parts thereof or territory without municipal organization in the designated area; or

(*b*) the ward established for election of one or more trustees of the urban separate school board,

that adjoins such attached municipality or part or territory without municipal organization, but this subsection does not apply to the municipality or municipalities that will be represented by a trustee by virtue of subsection 4.

Determination of trustee representation by enlarged board

(7) Subject to subsection 8, where a municipality or part thereof or territory without municipal organization that is attached to a designated area adjoins two or more municipalities in the designated area that are not combined for the purpose of electing one or more trustees, the county or district combined separate school board for the area that is enlarged shall, by resolution, determine the trustee or trustees who, for the remainder of the term of office of the board, shall represent the municipality or part or territory without municipal organization that is attached to the designated area, but this subsection does not apply to the municipality or municipalities that will be represented by a trustee by virtue of subsection 4.

Application of subss. 4, 6, 7

(8) Subsections 4, 6 and 7 do not apply where a regular election of the board is to be held before the effective date on which the municipality or municipalities or part or parts thereof or territory without municipal organization is attached.

Area added to Scarborough to be under Metropolitan Separate School Board
1973, c. 48

(9) The area added to the Borough of Scarborough by section 5 of *The Municipality of Metropolitan Toronto Amendment Act, 1973*, shall, on and after the 1st day of January, 1974, be part of the district of which the separate schools are administered by The Metropolitan Separate School Board. 1973, c. 117, s. 2.

Name of board in one county

108.—(1) A county combined separate school board that has jurisdiction in an area that includes only one county is a corporation by the name of "The..... County Roman Catholic Separate School Board" (*inserting the name of the county*). R.S.O. 1970, c. 430, s. 85 (1).

Name of county combined board

(2) A county combined separate school board that has jurisdiction in an area that includes two or more counties, or one county and a defined city is a corporation by the name of "The.....County Roman Catholic Separate School Board" (*inserting the names of the counties, the name of the city and of the county or a name selected by the board and approved by the Minister*). 1972, c. 76, s. 29.

Name of board in territorial districts

(3) A district combined separate school board that has jurisdiction in the territorial districts is a corporation by the name of "The.....Roman Catholic Separate School Board" (*inserting the name of the area designated by the regulations*).

Name of board in regional municipality

(4) Notwithstanding subsections 2 and 3 and except as provided in sections 114 and 115, a combined separate school board that has jurisdiction in all or part of a regional municipality is a corporation by the name of "The..... Roman Catholic Separate School Board" (*inserting a name selected by the board and approved by the Minister*). R.S.O. 1970, c. 430, s. 85 (3, 4).

109.—(1) For district combined separate school purposes, every separate school zone that comprises only territory without municipal organization and whose centre is in an area designated by the regulations made under subsection 2 of section 103, and any part of territory without municipal organization that is part of a combined separate school zone whose centres are in an area designated by the regulations made under subsection 2 of section 103, shall be deemed to be a district municipality. R.S.O. 1970, c. 430, s. 80 (3).

Territory without municipal organization in zones deemed district municipalities

(2) The board of a district combined separate school zone that includes territory without municipal organization that is deemed a district municipality for separate school purposes shall exercise the powers and duties of a municipal council for such district municipality in respect of preparing estimates, levying rates, collecting taxes and issuing debentures for the purposes of the district combined separate school board and in respect of the preparation of a list of voters and the election of members of such board, and all the officers appointed by such board have the same powers and duties as similar officers in an organized municipality except that the provisions of subsections 5 to 11 of section 65 apply *mutatis mutandis*, and the expenses incurred by the board in connection therewith except the issuing of debentures shall be raised by a levy imposed by the district combined separate school board on all property rateable for separate school purposes in such district municipality. R.S.O. 1970, c. 430, s. 80 (6), *amended*.

Powers and duties of combined board re territory without municipal organization

(3) In respect of territory without municipal organization referred to in subsection 2 that is part of a school division, the secretary of the board of the school division shall exercise the powers and perform the duties of the clerk of a municipality under subsections 2*a* to 2*l* of section 516 of *The Municipal Act* for the purposes of the district combined separate school board. 1972, c. 137, s. 4 (2).

Duties of secretary of board re school support

R.S.O. 1970, c. 284

(4) The secretary-treasurer of an improvement district that forms part of a district combined separate school zone, in each year in which an election for members of the district combined separate school board is to be held, shall provide for such election in the improvement district in the same manner as for the election of trustees in a municipality, and the secretary-treasurer of the improvement district shall be the clerk and returning officer and has all the powers and shall perform all the duties of the clerk and returning officer of a municipality in relation to the election of members of a district combined separate school board under *The Municipal Elections Act, 1972*. R.S.O. 1970, c. 430, s. 80 (7); 1972, c. 76, s. 26 (3), *amended*.

Election in improvement district

1972, c. 95

Interpretation

110.—(1) In this section,

(*a*) "equalized residential and farm assessment" means the residential and farm assessment referred to in clause *b*, as adjusted by the latest assessment equalization factor applicable thereto that is provided by the Minister;

(*b*) "residential and farm assessment" means the residential and farm assessment upon which taxes are levied in the year in which a determination is made or the year in which nominations are held, as the case may be. R.S.O. 1970, c. 430, s. 90 (1); 1972, c. 76, s. 30 (1).

Composition of board

(2) Subject to subsection 4 and except where otherwise expressly provided, the number of trustees of a combined separate school board shall be determined by the population of the county or counties or of the area municipalities in a regional municipality in the county combined separate school zone, and the number of trustees of a district combined separate school board shall be determined by the population of the municipalities all or part of which are included in the district combined separate school zone, as the case may be, as follows, where the population is,

(*a*) less than 25,000, eight trustees;

(*b*) 25,000 or more but less than 45,000, ten trustees;

(*c*) 45,000 or more but less than 100,000, twelve trustees;

(*d*) 100,000 or more but less than 200,000, fourteen trustees;

(*e*) 200,000 or more, sixteen trustees.

Change in numbers of trustees

(3) Where it becomes evident from the population of the county or counties in a county combined separate school zone or of the municipalities all or part of which are in a district combined separate school zone that the number of trustees of the board should be increased or decreased in accordance with subsection 2, at the next regular election of trustees the proper number of trustees shall be elected.

Number of trustees to be elected in a combined zone

(4) In a county or district combined separate school zone, the number of trustees to be elected by the separate school electors,

(*a*) of each city shall be equal to the product, correct to the nearest integer, the fraction one-half being raised to the next higher integer, obtained by multiplying the number of trustees determined under subsection 2 by the ratio of the equalized residential and farm assessment of the property rateable for separate school purposes in the city to the equalized residential and farm assessment of all the property rateable for separate school purposes in the county or district combined separate school zone; and

(*b*) of the county or district municipalities or the parts thereof shall be the number of trustees determined under subsection 2 less the total number of trustees determined under clause *a* for the city or cities, but in no case shall the number of trustees to be elected under this clause be fewer than one.

Determination under subs. 4 who to make

(5) The clerk of the county municipality or the clerk of the organized district municipality, as the case may be, or where there is no organized district municipality in the district combined separate school zone, the clerk of the city, having the greatest equalized residential and farm assessment for separate school purposes in a county or district combined separate school zone, shall make the determination required under subsections 2, 3 and 4, and shall, before the 1st day of September in the year of the determination, send by registered mail to the clerk of each city and of each county or district municipality in the combined separate school zone and to the secretary of the county or district combined separate school board, a copy of the determination.

When determination to be made

(6) Before the 1st day of September in the year in which an election is to be held, a determination shall be made under subsection 4,

(*a*) if it is determined under subsection 3 that the number of members of the county or district combined separate school board should be increased or decreased or if the boundaries of the county or district combined separate school zone have been altered, or are to be altered, effective the 1st day of January next following the election;

(*b*) if,

(i) the boundaries of one or more cities within the county or district combined separate school zone have been altered or a new city has been erected in the county or district combined separate school zone subsequent to the latest

determination made under subsection 4 that did not take into account the altered boundaries or the new city, or

(ii) the boundaries of one or more cities within the county or district combined separate school zone are to be altered or a new city is to be erected effective the 1st day of January of the year next following the election; and

(*c*) in every fourth year following the latest determination under subsection 4,

and, subject to subsection 15, a determination made under subsection 4 is effective until a new determination is required in accordance with this subsection.

Where a city does not qualify for at least one trustee

(7) Where a city is not entitled to one or more trustees under clause *a* of subsection 4, the city shall be deemed to be a county or district municipality for the purposes of subsection 4 or 8, and the clerk of the city shall be deemed to be a clerk of a county or district municipality for the purposes of subsection 8.

Distribution of trustees to be elected in county or district municipalities in combined zone

(8) With respect to the county municipalities in a county combined separate school zone and the district municipalities in a district combined separate school zone, the clerks of the three county municipalities or the clerks of the three organized district municipalities, as the case may be, having successively the greatest equalized residential and farm assessment for separate school purposes in the combined separate school zone, and where there are fewer than three organized district municipalities in the district combined separate school zone, the clerks of all such municipalities, shall determine, before the 1st day of September in each year in which,

(*a*) a determination is made in accordance with subsection 6; or

(*b*) an election is to be held and the boundaries of one or more county or district municipalities have been altered subsequent to the latest determination under this subsection, or are to be altered effective on or before the 1st day of January next following the election,

the county or district municipality or municipalities to be represented by each trustee to be elected in the county or district municipalities in the combined separate school zone, but in no case where two or more trustees are to be elected

in the county or district municipalities shall the determination under this subsection provide for a trustee to be elected by a general vote of all the separate school electors of the county or district municipalities, and such determination is effective until a new determination is required under this subsection. R.S.O. 1970, c. 430, s. 90 (2-8), *amended*.

Distribution of members within combined municipalities

(9) Where two or more county municipalities that are not in a regional municipality are combined under subsection 8 for the election of two or more trustees and one of the combined municipalities has a population in excess of 75,000, the clerks of such combined municipalities may, before the 15th day of September in any year in which a determination is made under subsection 8, determine that a portion of a county municipality that is so combined be attached to one or more of the other county municipalities in the combination of municipalities for the election of one or two trustees and, where the clerks of such combined municipalities so determine,

(*a*) the number of trustees to be elected in the combined municipalities shall be apportioned among the combined areas formed under this subsection and the remainder, if any, of the county municipality, as nearly as is practicable in the proportion that the equalized residential and farm assessment of the property rateable for separate school purposes in each such combined area and in the remainder, if any, of the county municipality, bears to the total equalized residential and farm assessment of the property rateable for separate school purposes in the combined municipalities; and

(*b*) where the remainder of the county municipality is to be represented by two or more trustees, subsections 17 and 18 apply *mutatis mutandis* in respect of such remainder.

Appeal from determination under subs. 9

(10) Where the determination made under subsection 9 apportions to a combined area or to the remainder of a county municipality a percentage of the total number of trustees to be elected in the combined municipalities as determined under subsection 8 that differs by more than five percentage points from the percentage that the equalized residential and farm assessment of the property rateable for separate school purposes in the combined area or in the remainder of the county municipality, as the case may be, is of the total equalized residential and farm assessment of the property rateable for separate school purposes in the combined municipalities, the council of a municipality all or part of which is in the combined area or part of which forms such remainder, as the case may be,

may, within fifteen days after notice of such determination has been sent, appeal the determination to the judge who shall either reapportion the number of trustees in accordance with clause *a* of subsection 9 or, where he determines that the determination was made in accordance with such clause, confirm the determination, and his decision is final. 1972, c. 76, s. 30 (2).

Where judge to make determination

(11) Where the determination under subsection 8 is not made before the 1st day of September, the clerk of the county municipality or of the district municipality, as the case may be, having the greatest equalized residential and farm assessment for separate school purposes in the combined separate school zone, shall refer the matter to the judge, who shall make the determination before the 1st day of October in accordance with subsection 13, and his decision is final. R.S.O. 1970, c. 430, s. 90 (9).

Municipal clerk from each county to be on committee under subs. 8

(12) Where the separate school zones in two or more counties are combined to form a county combined separate school zone, and where the three clerks designated under subsection 8 do not include a clerk from each county in the county combined separate school zone, the clerk of the county municipality having the greatest equalized residential and farm assessment for separate school purposes in each such county not so represented shall act together with the clerks designated under subsection 8. R.S.O. 1970, c. 430, s. 90 (10); 1972, c. 76, s. 30 (3).

Determination

(13) In determining under subsection 8,

(*a*) the number of trustees to be elected by the separate school electors of a county or district municipality; or

(*b*) the county or district municipalities that are to be combined for the election of one or more trustees by the separate school electors of such municipalities,

the clerks of the county or district municipalities, as the case may be, shall apportion the number of trustees determined for a combined separate school zone under clause *b* of subsection 4, as nearly as is practicable, in the proportion that the equalized residential and farm assessment of the property rateable for separate school purposes in the part of such zone in the municipality or combined municipalities bears to the total equalized residential and farm assessment of the property rateable for separate school purposes in the whole of such zone in the county or district municipalities in such zone, and shall, in so far as it is practicable to do so, combine municipalities that are adjoining.

Appeal from determination

(14) Where the determination made by the clerks of the county or district municipalities under subsection 8 allots to a municipality or to a combination of municipalities a percentage of the total number of trustees to be elected by the separate school electors of all the county or district municipalities in the combined separate school zone that differs by more than five percentage points from the percentage that the equalized residential and farm assessment of the property rateable for separate school purposes in the part of such zone in the municipality or combination of municipalities is of the total equalized residential and farm assessment of the property rateable for separate school purposes in the whole of such zone, the council of the municipality or the council of any municipality in such combination of municipalities, as the case may be, may, within fifteen days after notice of the determination has been mailed, appeal the determination to the judge who, before the 1st day of October, shall either reapportion the number of trustees in accordance with subsection 13 or, where he determines that the determination was made in accordance with subsection 13, confirm the determination, and his decision is final.

Request by clerk for information

(15) On the request of the clerk of the county municipality or the organized district municipality, as the case may be, having the greatest equalized residential and farm assessment for separate school purposes in a combined separate school zone, the clerk of each city and of each county or district municipality and the secretary of the county or district combined separate school board shall provide the clerk of such county municipality or organized district municipality with the information required to make any determination under this section.

Mailing of determination under subss. 8, 14

(16) The clerk of the county municipality or the clerk of the organized district municipality, as the case may be, having the greatest equalized residential and farm assessment for separate school purposes in a county or district combined separate school zone shall send by registered mail to the clerk of each city and of each county or district municipality in the combined separate school zone and to the secretary of the county or district combined separate school board,

(*a*) before the 1st day of September in each year in which it is determined under subsection 3 that the number of trustees of the board should be increased or decreased or in which a determination is made under subsection 8, a copy of the determination made under subsection 8; and

(*b*) before the 1st day of October in each year in which a determination is made by the judge under subsection 11 or 14 a copy of the determination.

Appeal and decisions of judge

(17) The council of any municipality concerned and a district combined separate school board on behalf of any territory without municipal organization may, within ten days of the mailing of the determination made under subsection 4, appeal to the judge with respect to the accuracy of the determination, and the judge shall either vary or confirm the determination, and his decision is final, and the clerk of the county or district municipality responsible under subsection 5 for making such determination shall make the changes required by the judge and shall send a copy of the decision by registered mail to the clerk of each city and of each county or district municipality in the combined separate school zone and to the secretary of the county or district combined separate school board.

New determination where former determination improper

(18) Where the council of a municipality, or a county or district combined separate school board on behalf of any territory without municipal organization that is deemed a district municipality, after the period for an appeal under this section, and notwithstanding a decision made in respect of such appeal, is of the opinion that the composition of the board of a combined separate school zone was not determined in accordance with the provisions of this section, the council or the board may, before the 1st day of May in the year of the next following election, apply to the judge to have the determination set aside and, where the judge finds that the determination was not made in accordance with the provisions of this section, he shall order a new determination to be made, and the determination so made, subject to an appeal under subsection 14 or 17, shall apply to the election next following such determination, and the board in respect of which the application to the judge is made shall be deemed to have been properly constituted notwithstanding any defect in its composition.

Where election by general vote and where by areas

(19) The number of trustees of a county or district combined separate school board to be elected in a municipality shall be elected by a general vote of the separate school electors of such board in the municipality, provided that, where it is determined under this section that the number of trustees to be elected to the board by the separate school electors in the municipality is two or more, the council of the municipality may, by by-law, divide the municipality into two or more areas and provide for the election of one or more of such trustees by the separate school electors in each of such areas. R.S.O. 1970, c. 430, s. 90 (11-17).

Time for passing by-law

(20) A by-law for the purpose mentioned in subsection 19 and a by-law repealing any such by-law shall not be passed later than the 1st day of October in the year of the election

and shall take effect for the purpose of the election next after the passing of the by-law and remains in force until repealed. R.S.O. 1970, c. 425, s. 38 (20); R.S.O. 1970, c. 430, s. 90 (18).

Elections in combined areas

(21) Where two or more county or district municipalities are combined for the election of one or more trustees, such trustee or trustees shall, except where a determination is made under subsection 9, be elected by a general vote of the separate school electors of the combined municipalities, and where, under subsection 9 or 10 a portion of a county municipality is attached to one or more other county municipalities for the election of one or two trustees, such trustee or trustees shall be elected by a general vote of the separate school electors of such combined area, and,

(*a*) the nominations in each case shall be conducted by the returning officer of the municipality having the greatest equalized residential and farm assessment for separate school purposes of any municipality all of which is in the area for which the trustee or trustees are to be elected, who shall send to the clerk of each municipality concerned, by registered mail within forty-eight hours after the closing of nominations, the names of the candidates who have qualified; and

(*b*) the clerk of each municipality shall be the returning officer for the vote to be recorded in his municipality and he shall report forthwith the vote recorded to the returning officer referred to in clause *a*, who shall prepare the final summary and announce the vote. 1972, c. 76, s. 30 (4).

Secretary of board deemed clerk for elections in areas deemed district municipalities

(22) For the purposes of clause *b* of subsection 21, the secretary of the district combined separate school board shall be the clerk of each part of territory without municipal organization in the district combined separate school zone that is deemed to be a district municipality for separate school purposes. R.S.O. 1970, c. 430, s. 90 (20).

Elections

(23) The election of trustees of a county or district combined separate school board shall be conducted by the same officers and in the same manner as elections of members of the council of a municipality. 1972, c. 76, s. 30 (5).

Effect of boundary change on election

111. Where the boundaries of an area designated by the regulations under subsection 2 of section 103 in respect of a county or district combined separate school board are to be altered effective on the 1st day of January next following

the election of trustees of the board, the boundaries of such area shall be deemed to have been altered for all purposes relating to such election. 1972, c. 137, s. 5.

Number of votes to be cast

112.—(1) Every person in a municipality or in a part thereof or in a combination of municipalities who is qualified to vote for trustees of a separate school board under sections 103 to 115 is entitled to as many votes as there are trustees to be elected in such municipality or part or combination of municipalities, but may not give more than one vote to any one candidate.

Retiring trustees eligible for re-election

(2) A trustee of a county or district combined separate school board is eligible for re-election if otherwise qualified.

Qualifications for nominators of candidates

(3) Every nominator of a candidate for the office of a trustee to be elected to a separate school board under sections 103 to 115 shall be a separate school elector.

Person not to be candidate for more than one seat on board

(4) No person shall qualify himself as a candidate for more than one seat on a county or district combined separate school board, and any person who so qualifies himself and is elected to hold one or more seats on the county or district combined separate school board is not entitled to sit as a trustee of the board by reason of the election, and his seat or seats are thereby vacated. R.S.O. 1970, c. 430, s. 91 (1-4), *amended*.

Election to fill vacancy

1972, c. 95

(5) A separate school board under sections 103 to 115 may require that an election be held to fill a vacancy on the board and, where an election is held, the provisions of *The Municipal Elections Act, 1972* that pertain to an election to fill a vacancy apply. 1972, c. 76, s. 31.

Ottawa separate school zone

113.—(1) On and after the 1st day of January, 1970, the cities of Vanier and Ottawa and the Village of Rockcliffe Park are united to form a county combined separate school zone under sections 103 to 115.

Ottawa Board

(2) A separate school board shall be established for such combined separate school zone which shall be a corporation by the name of "The Ottawa Roman Catholic Separate School Board" and shall consist of sixteen trustees.

Number of trustees to be elected in Ottawa and Rockcliffe Park

(3) The number of trustees to be elected by the separate school electors in the area comprising the City of Ottawa and the Village of Rockcliffe Park shall be equal to the product, correct to the nearest integer, the fraction one-half being raised to the next higher integer, obtained by multiplying sixteen by the ratio of the equalized residential and farm

assessment of the property rateable for separate school purposes in the City of Ottawa and the Village of Rockcliffe Park to the equalized residential and farm assessment of all the property rateable for separate school purposes in the combined separate school zone, and such trustees shall be elected by general vote.

Vanier

(4) The number of trustees to be elected by the separate school electors in the City of Vanier shall be sixteen, less the number determined under subsection 3, and such trustees shall be elected by general vote, but in no case shall the number of trustees elected under this subsection be fewer than one.

Election of trustees, term of office

(5) Commencing in the year 1969, the trustees of The Ottawa Roman Catholic Separate School Board shall be elected at the same time and place and for the same term of office as the members of The Ottawa Board of Education, and the nomination of candidates for the offices of trustees to be elected by the separate school electors in the City of Ottawa and the Village of Rockcliffe Park shall be submitted to the returning officer of the City of Ottawa, and the clerk of the Village of Rockcliffe Park, forthwith after the election, shall report the vote recorded in his municipality to the clerk of the City of Ottawa who shall prepare the final summary and announce the vote.

Application of ss. 103-115

(6) Except where inconsistent with this section, the other provisions of sections 103 to 115 in respect of county combined separate school boards apply *mutatis mutandis* to the board established under subsection 2. R.S.O. 1970, c. 430, s. 82, *amended*.

Carleton combined separate school zone

114.—(1) On and after the 1st day of January, 1969, the separate school zones and the former separate school zones that form all or part of a combined separate school zone whose centres are within an area municipality as defined in *The Regional Municipality of Ottawa-Carleton Act*, except the cities of Vanier and Ottawa and the Village of Rockcliffe Park, are united to form a county combined separate school zone.

R.S.O. 1970, c. 407

Carleton Board

(2) A separate school board shall be established for such county combined separate school zone which shall be a corporation by the name of "The Carleton Roman Catholic Separate School Board".

Election of trustees, term of office

(3) The trustees of The Carleton Roman Catholic Separate School Board shall be elected at the same time and for the same term of office as the members of The Carleton Board of Education.

Application of Act to Carleton Board

(4) Except as provided in this section, all the provisions of this Act respecting county combined separate school boards apply to The Carleton Roman Catholic Separate School Board. R.S.O. 1970, c. 430, s. 83.

Part of Ottawa-Carleton deemed county
R.S.O. 1970, c. 407

(5) For county combined separate school purposes, the area municipalities as defined in *The Regional Municipality of Ottawa-Carleton Act*, except the cities of Ottawa and Vanier and the Village of Rockcliffe Park, shall be deemed to be a county. R.S.O. 1970, c. 430, s. 80 (2).

Essex county

115.—(1) For county combined separate school purposes, the County of Essex does not include the City of Windsor. R.S.O. 1970, c. 430, s. 80 (4); 1972, c. 76, s. 26 (2).

Application of ss. 203, 204

(2) Sections 203 and 204 apply *mutatis mutandis* to the City of Windsor and The Board of Trustees of the Roman Catholic Separate Schools for the City of Windsor. R.S.O. 1970, c. 430, s. 80 (5).

Rates, Borrowing Powers and Grants

Exemption of supporters from public school rates

116.—(1) Every person paying rates in a separate school zone on property that he occupies as owner or tenant or on unoccupied property that he owns, who by himself or his agent, on or before the 30th day of September in any year, gives to the clerk of the municipality notice in writing that he is a Roman Catholic and that he wishes to be a separate school supporter, is exempt from the payment of all rates imposed on such property in the separate school zone for public school purposes for the following year and every subsequent year while he continues to be a separate school supporter with respect to such property.

No renewal required

(2) The notice is not required to be renewed annually.

Who may be supporters of separate schools

(3) Any person who is a Roman Catholic and resident on a parcel of land that is within a separate school zone may be a separate school supporter in that zone. R.S.O. 1970, c. 430, s. 53 (1-3), *amended*.

Rights of non-residents to be assessed for separate school

(4) Any person who, if he were resident in a separate school zone, would be entitled to be a supporter of a separate school and who is the owner of unoccupied land situate in the separate school zone, may, on or before the 30th day of September in any year, by written notice to the clerk of the municipality in which the land is situate or, where the land is not in a municipality, to the secretaries of the public and separate school boards, direct that all such land in the separate school zone shall be assessed for the purposes of the separate school. 1972, c. 76, s. 16.

(5) Every clerk of a municipality, upon receiving the notice, shall deliver a certificate to the person giving the notice to the effect that the notice has been given and showing the date thereof. Certificate of notice

(6) Any person who fraudulently gives such notice, or wilfully makes any false statement therein, does not thereby secure any exemption from the rates, and in addition is guilty of an offence and on summary conviction is liable to a fine of not more than $100. Penalty for wilful false statements in notice

(7) Nothing in this section exempts any person from paying any rate for public school purposes imposed before the establishment of the separate school zone. R.S.O. 1970, c. 430, s. 53 (5-7), *amended*. As to rates imposed before separate school established

117.—(1) A Roman Catholic who desires to withdraw his support from a separate school shall, on or before the 30th day of September in any year, give notice in writing that he desires to withdraw his support for the following year, Notice of withdrawal of support

(*a*) where the separate school is situated in a municipality, to the clerk of the municipality; or

(*b*) where the separate school is situated in territory without municipal organization,

(i) if he resides in a school section, to the secretary of the public school board of the section and to the secretary of the separate school board, or

(ii) if he does not reside in a school section, to the secretary of the separate school board,

otherwise he shall be deemed to be a supporter of the separate school.

(2) A person who withdraws his support from a Roman Catholic separate school is not exempt from paying rates for separate school purposes imposed before the date on which the withdrawal of such support is effective. R.S.O. 1970, c. 430, s. 59. Exception

118.—(1) Where a person resides in a separate school zone and is a separate school supporter in such zone but his residence is situate in a municipality other than a municipality in which a centre of such zone is located, he is liable to pay and shall pay the separate school rates or taxes imposed by the board of the separate school of which he is a Liability of non-resident supporter

supporter upon property that is situate in such zone and that he occupies as owner or tenant or that is unoccupied and owned by him, and he is not liable to pay rates or taxes to any other separate school board in respect of such property.

How enforceable

(2) The board of the school of which he is a supporter shall notify the clerk of the municipality in which such supporter resides of the amount of the school taxes or rates payable by him, and the same shall be collected in like manner as other taxes, and when collected shall be paid over to the board. R.S.O. 1970, c. 430, s. 58, *amended*.

Clerk to keep index book

119.—(1) The clerk of every municipality shall keep entered in an index book (Form 1) and in alphabetical order, the name of every person who has given to him, or to any former clerk of the municipality, notice in writing that such person is a Roman Catholic and a supporter of a separate school in or contiguous to the municipality, as provided by sections 116, 122 and 123 or by former Acts respecting separate schools.

Entries

(2) The clerk shall enter opposite the name, in a column for that purpose, the date on which the notice was received, and in a third column opposite the name any notice by such person of withdrawal from supporting a separate school, as provided by section 117, or by any such other Act, with the date of the withdrawal, or any disallowance of the notice by the Assessment Review Court, by a judge, by the Ontario Municipal Board or by the Court of Appeal, with the date of the disallowance.

Inspection

(3) The index book shall be open to inspection by any ratepayer.

Filings

(4) The clerk shall file and carefully preserve all such notices heretofore or hereafter received. R.S.O. 1970, c. 430, s. 60 (1-4).

Clerk to be guided by index book

(5) The clerk and the appropriate assessment commissioner shall be guided by the entries in the index book in ascertaining those who have given the prescribed notices. R.S.O. 1970, c. 430, s. 60 (5); 1972, c. 76, s. 17, *amended*.

Correction of mistakes in assessing
R.S.O. 1970, c. 32

120.—(1) If it appears to the council of any municipality after the final revision of the list supplied to the clerk under section 23 of *The Assessment Act* that through mistake or inadvertance a ratepayer has been entered on the list either as a supporter of separate schools or as a supporter of public schools, the council after due inquiry and notice may correct the error by directing the school taxes of the ratepayer to be paid to the proper school board, but the council is not competent to reverse the decision of the Assessment Review Court, a judge, the Ontario Municipal Board or the Court of Appeal on appeal. R.S.O. 1970, c. 430, s. 61 (1); 1972, c. 76, s. 18.

(2) In case of such action by a council, the ratepayer is liable for the same amount of school taxes as if he had in the first instance been properly entered on the roll. R.S.O. 1970, c. 430, s. 61 (2). Liability

121.—(1) The clerk of every municipality, in making out the collector's roll, shall place columns therein so that under the heading of "School Rate" the public school rate may be distinguished from the separate school rate, and that under "Special Rate for School Debts" public school purposes may be distinguished from separate school purposes. Distinguishing the school rates

(2) The proceeds of any such rate shall be kept distinguished by the collector and accounted for accordingly. R.S.O. 1970, c. 430, s. 62. Idem

122.—(1) The occupant or tenant of land shall be deemed to be the person primarily liable for the payment of school rates and for determining whether those rates shall be applied to public or separate school purposes, and no agreement between the owner or tenant as to the payment of taxes as between themselves alters or affects this provision. Case of owner and occupant

(2) Where, as between the owner and tenant or occupant, the owner is not to pay taxes, if by the default of the tenant or occupant to pay the same, the owner is compelled to pay such school rate, he may direct the same to be applied to either public or separate school purposes, and if the public school rate and the separate school rate are not the same he is only liable to pay the amount of the rate of the schools to which he directs his money to be paid. R.S.O. 1970, c. 430, s. 63. When owner may exercise option

123.—(1) A corporation by notice (Form 2) to the clerk of any municipality wherein a separate school exists may require the whole or any part of the land of which the corporation is either the owner and occupant, or not being the owner is the tenant, occupant or actual possessor, and the whole or any proportion of the business assessment or other assessments of the corporation made under *The Assessment Act*, to be entered, rated and assessed for the purposes of the separate school. R.S.O. 1970, c. 430, s. 64 (1). Right of corporation to support separate schools; R.S.O. 1970, c. 32

(2) The clerk shall thereupon enter the corporation as a separate school supporter in the collector's roll in respect of the land and business or other assessments designated in the notice, and the proper entries shall be made in the prescribed column for separate school rates, and so much of the land and business or other assessments so designated shall be assessed accordingly for the purposes of the separate school and not for public school purposes, but all other land and the Duty of clerk

remainder, if any, of the business or other assessments of the corporation shall be separately entered and assessed for public school purposes. R.S.O. 1970, c. 430, s. 64 (2); 1972, c. 76, s. 20 (1).

How proportions settled

(3) Unless all the stock or shares are held by Roman Catholics, the share or portion of such land and business or other assessments to be so rated and assessed shall not bear a greater proportion to the whole of such assessments than the amount of the stock or shares so held bears to the whole amount of the stock or shares.

Effect of notice

(4) A notice given in pursuance of a resolution of the directors is sufficient and shall continue in force and be acted upon until it is withdrawn, varied or cancelled by a notice subsequently given pursuant to any resolution of the corporation or of its directors, except that, upon appeal, if it is ruled that the notice is not a proper notice, it is void, and the clerk shall so notify the corporation and mark the notice accordingly. R.S.O. 1970, c. 430, s. 64 (3, 4).

Filing notice

(5) Every notice so given shall be kept by the clerk on file in his office and shall at all convenient hours be open to inspection and examination by any person entitled to examine or inspect a collector's roll. R.S.O. 1970, c. 430, s. 64 (5); 1972, c. 76, s. 26 (20).

Search for notices
R.S.O. 1970, c. 32

(6) The clerk shall in each year, before the final revision of the list supplied to the clerk under section 23 of *The Assessment Act*, search for and examine all notices that may be so on file and shall follow and conform thereto and to the provisions of this Act. R.S.O. 1970, c. 430, s. 64 (6); 1972, c. 76, s. 20 (3).

Estimates

124.—(1) Every separate school board shall prepare and adopt estimates of all sums required during the year for separate school purposes, and the provisions of section 205 in respect of the preparation and adoption of the estimates of all sums required for public school purposes by a divisional board of a school division apply, *mutatis mutandis*, to a separate school board for separate school purposes.

Where cost of separate levy payable by board

(2) Where rates or taxes in respect of separate schools are levied and collected by the council of a municipality under section 130 and the separate school board is unable in any year to submit to the council on or before the 1st day of March the rates required by the separate school board to be levied and collected in the municipality for separate school purposes, the later submission thereof does not relieve the council of its duty under section 130 to levy and collect such rates, and, where the municipality is required, by reason

of such later submission, to levy such rates by a separate levy from the amount levied for municipal purposes, the separate school board on the request of the treasurer of the municipality shall pay to the treasurer the cost of levying such rates.

(3) Subsection 5 of section 307 of *The Municipal Act* does not apply to a separate school board. 1972, c. 137, s. 3. Application of R.S.O. 1970, c. 284, s. 307(5)

125.—(1) The board of a separate school may in respect of the estimates adopted under section 124 impose and levy school rates and collect school rates and subscriptions upon and from persons sending children to or subscribing towards the support of such schools, and may appoint collectors for collecting the school rates or subscriptions who shall have all the powers in respect thereof possessed by collectors of taxes in municipalities. R.S.O. 1970, c. 430, s. 66 (1); 1972, c. 76, s. 22. Powers of trustees

(2) If a collector appointed by the board is unable to collect any part of a school rate charged on land liable to assessment by reason of there being no person resident thereon or no goods and chattels to distrain, the board shall make a return to the clerk of the municipality before the end of the then current year of such land and the uncollected rates thereon. Land on which there are rates uncollected

(3) The clerk shall make a return of such land and the arrears of separate school rates thereon to the appropriate municipal treasurer. Return

(4) The arrears shall be collected and accounted for by the treasurer in the same manner as the arrears of other taxes. Collection of rates

(5) The council of the township, village, town or city in which the separate school zone is situate shall make up the deficiency arising from such uncollected rates out of the general funds of the municipality. R.S.O. 1970, c. 430, s. 66. Deficiency

126. Where some of the supporters in a separate school zone reside in a municipality or in territory without municipal organization and in a secondary school district and other supporters in the separate school zone reside in another municipality or in territory without municipal organization and not in a secondary school district, and the separate school board, Levy for costs for transportation and board and lodging of secondary school pupils not resident in secondary school district

(*a*) provides daily transportation; or

(*b*) reimburses the parents or guardians for the cost of board, lodging and transportation once a week under subsection 10 of section 163,

for secondary school pupils whose parents or guardians are separate school supporters who do not reside in the secondary school district, such separate school board may levy the cost of such transportation or reimbursement for the preceding year, less the legislative grants paid thereon, on the supporters who do not reside in the secondary school district. R.S.O. 1970, c. 430, s. 67.

Determining school rates by equalizing factor

127.—(1) Where a separate school zone includes territory in two or more municipalities, the board shall, when it is setting the rates to be levied in any year, use an equalizing factor for each municipality in the zone which, when applied to the local assessment of properties in a municipality, would increase or decrease the local assessment on such properties to a sum equal to the local assessment on similar properties in the municipality in which the greatest number of its pupils reside.

Adoption of rate

(2) The board shall adopt a tax rate to be levied in the municipality in which the greatest number of its pupils reside and multiply that rate by the factor determined for each municipality in the zone, and the resulting rates calculated to the nearest tenth of a mill shall be the rates in the respective municipalities for separate school purposes in the zone.

Arbitrators, appointment

(3) For the purpose of determining the factors, the board shall appoint three arbitrators who are not trustees who shall meet and determine the factors.

Meeting

(4) The secretary of the board shall call the meeting of the arbitrators.

Determination of factors

(5) The arbitrators shall base their decision on a comparison of the local assessment on sample properties that are assessed to the support of the separate schools in the municipality in which the greatest number of its pupils reside with the local assessment on similar properties in the other municipalities in which any part of the separate school zone is situated, and the factors so determined shall be used by the board when it sets its rates at any time following the decision of the arbitrators and until the factors are altered by arbitration.

When factors to be determined

(6) The factors shall be determined,

(*a*) in the year in which the separate school is formed;

(*b*) in any year that is divisible evenly by 5;

(*c*) in any year in which the basis of assessing has been changed in any of the municipalities in which part of the separate school zone is situate; and

(*d*) in any year if the board so directs.

Appeal to board

(7) Five supporters of the separate school in the separate school zone or the majority of the supporters who reside in one municipality in the zone may, on or before the 1st day of November in any year, appeal to the board against the last determination of the factors, and the decision of the board is final.

Use of factors

(8) The factors determined in any year shall be used for the purposes of taxation in the following and subsequent years until the year following the next determination of the factors.

Cost of arbitration

(9) The cost of the arbitration shall be paid by the separate school board. R.S.O. 1970, c. 430, s. 68.

Trustees may copy assessment roll of municipality

128. The clerk or other officer of a municipality within or adjoining which a separate school is established, having possession of the assessor's or collector's roll of the municipality, shall permit any trustee or the collector of the board to make a copy of the roll in so far as it relates to the persons supporting the separate school. R.S.O. 1970, c. 430, s. 69.

Clerk to give trustees annual statement of supporters of separate schools

129. The clerk of a municipality in which there is a separate school board shall, once in each year, upon the written request of the board, deliver to it a statement in writing showing the names of all persons who are separate school suporters with the amount for which each person has been rated upon the assessment roll. R.S.O. 1970, c. 430, s. 70.

Request for collection of separate school rates by the municipality

130.—(1) The council of a municipality, if so requested on or before the 1st day of February in any year by a separate school board having jurisdiction in the municipality, shall levy and collect upon the property rateable for separate school purposes in the municipality and within the jurisdiction of the board, the rates or taxes imposed thereon by the board, and such request shall be deemed to continue from year to year unless terminated by the board giving notice to the council on or before the 1st day of February in any year. R.S.O. 1970, c. 430, s. 71 (1); 1971, c. 70, s. 3.

Expenses of collection

(2) Any expenses attending the assessment, collection or payment of school rates by the municipal corporation shall be borne by the corporation, and the rates and taxes collected

for separate school purposes shall be paid by the corporation to the treasurer of the board and the provisions of section 208 shall apply *mutatis mutandis* to such rates and taxes. R.S.O. 1970, c. 430, s. 71 (2), *amended*.

Borrowing powers of separate school trustees

131.—(1) The board of a separate school may pass by-laws for borrowing money, by mortgages or other instruments, upon the security of the schoolhouse property and premises and any other real or personal property vested in the board and upon the separate school rates for the purpose of paying the cost of school sites, school buildings or additions or repairs thereto or for any other school purposes. R.S.O. 1970, c. 430, s. 73 (1), *amended*.

Terms of payment

(2) The principal money may be made payable in annual or other instalments, with or without interest, and the board, in addition to all other rates or money that it may levy in any one year, may levy and collect in each year such further sum as may be requisite for paying all principal money and interest falling due in that year, and the same shall be levied and collected in each year in the same manner and from the like persons and property by, from, upon or out of which other separate school rates may be levied and collected.

Debentures

(3) Such mortgages and other instruments may in the discretion of the board be made in the form of debentures, and the debentures are a charge on the same property and the rates as in the case of mortgages thereof made by the board.

Maturity

(4) The debt to be so incurred and the debentures to be issued therefor may be made payable in thirty years at the furthest, and in equal annual instalments of principal and interest, or in any other manner authorized by *The Municipal Act* in the case of debentures issued under that Act. R.S.O. 1970, c. 430, s. 73 (2-4).

R.S.O. 1970, c. 284

Sinking fund

(5) Where the debt is not payable by instalments, the board shall levy in each year during the currency of the debt in addition to the amount required to pay the interest falling due in such year a sum such that the aggregate amount so levied during the currency of the debt, with the estimated interest on the investments thereof, will be sufficient to discharge the debt when it becomes payable.

Investment of fund

(6) The sum referred to in subsection 5 shall be deposited with a chartered bank or a trust company that is registered under *The Loan and Trust Corporations Act*, and such sum and any income resulting therefrom shall be invested by such bank or trust company in the manner provided in

R.S.O. 1970, cc. 254, 284

The Municipal Act for sinking funds, and subsections 4 to 9 of section 291 of *The Municipal Act* apply *mutatis mutandis* except that reference therein to the Ministry of Treasury, Economics and Intergovernmental Affairs shall be deemed to be a reference to the Ministry of Education. 1972, c. 76, s. 25.

Publication of notice of by-law

(7) Before a by-law for borrowing money for a permanent improvement is acted upon, notice of the passing of the by-law shall be published for three consecutive weeks in a newspaper having general circulation within the separate school zone stating,

(*a*) the purpose for which the money is to be borrowed;

(*b*) the amount to be borrowed and the security therefor;

(*c*) the terms of repayment including the rate of interest,

and, if no application to quash the by-law is made for three months after publication of notice of the passing thereof, the by-law is valid notwithstanding any want of substance or form in the by-law or in the time or manner of passing the by-law.

Amounts

(8) The debentures issued under the by-law may be for such amounts as the board considers expedient. R.S.O. 1970, c. 430, s. 73 (6, 7).

Share of legislative grants

132.—(1) Every separate school shall share in the legislative grants in like manner as a public school.

Right of separate schools to a share of municipal grants

(2) Every separate school is entitled to share in all grants, investments and allotments for public school purposes made by any municipal authority according to the average number of pupils enrolled at the school during the next preceding twelve months, or during the number of months that may have elapsed from the establishment of a new separate school, as compared with the whole average number of pupils enrolled at school in the same city, town, village or township.

Apportionment

(3) Where the grant is made by a council of a county or a regional municipality it shall be apportioned in like manner as the legislative grant.

Not to share in public school assessment

(4) A separate school is not entitled to share in any school money arising or accruing from local assessment for public school purposes within the city, town, village or township in which the school is situate. R.S.O. 1970, c. 430, s. 74, *amended*.

Visitors

Separate school visitors

133. A parent or guardian of a child attending a separate school and a member of the board that operates the school may visit such school, and a member of the Assembly and a clergyman of the Roman Catholic Church may visit a separate school in his constituency or in the area where he has pastoral charge, as the case may be. R.S.O. 1970, c. 430, s. 75, *amended*.

FORM 1

FORM OF INDEX BOOK

[*Section 119 (1)*]

Names	Notices claiming exemption, when received	Remarks
Allen, John.....	3rd February, 19..	Notice of withdrawal received 1st January, 19...
Ardagh, Joseph....	3rd February, 19..	
Ashbridge, Robert..	3rd February, 19..	Disallowed by Assessment Review Court, 1st June, 19...

R.S.O. 1970, c. 430, Form 1.

FORM 2

NOTICE BY CORPORATION AS TO APPLICATION OF SCHOOL TAX

[*Section 123 (1)*]

To the Clerk of (*describing the municipality*)

Take notice that (*here insert the name of the corporation so as to sufficiently and reasonably designate it*), pursuant to a resolution in that behalf of the directors, requires that hereafter and until this notice is either withdrawn or varied, the whole or so much of the assessment for land and business or other assessments of the corporation within (*giving the name of the municipality*) as is hereinafter designated, shall be entered, rated and assessed for separate school purposes, namely, (*here insert fraction of assessment so designated*) of the land and business or other assessments.

Given on behalf of the company (*here insert date*).

Secretary of the Company.

R.S.O. 1970, c. 430, Form 2, *amended*.

PART V

PROTESTANT SEPARATE SCHOOLS

Application to establish Protestant separate school

134.—(1) Subject to subsection 3, five or more heads of families resident in a municipality and being Protestants may, before the 1st day of July in any year, apply in writing, in the case of a township, to the council of the township or, in the case of an urban municipality, to the public school board for permission to establish in the municipality one or more separate schools for Protestants.

Permission to establish

(2) Subject to subsection 3, the council or the public school board, as the case may be, within thirty days of the receipt of a proper application shall grant permission to the applicants to establish in the municipality one or more separate schools for Protestants.

Restrictions on establishment

(3) A Protestant separate school shall not be established in a municipality except where the teacher or teachers in the public school or schools in the municipality are Roman Catholics. R.S.O. 1970, c. 430, s. 1.

Effective date

(4) A Protestant separate school is established on the day following the granting of permission to establish the school by the council or public school board, as the case may be. R.S.O. 1970, c. 430, s. 4.

Notice to be supporter, exemption from public school rates

135.—(1) Every person paying rates on property that he occupies as owner or tenant in a municipality in which a Protestant separate school is established, who, by himself or his agent, on or before the 30th day of September in any year, gives to the clerk of the municipality notice in writing that he is a Protestant and that he wishes to be a Protestant separate school supporter, is exempt from the payment of all rates imposed on such property for the support of public schools or for the purchase of land or the erection of buildings for public school purposes for the following year and every subsequent year while he continues to be a Protestant separate school supporter with respect to such property.

No renewal required

(2) The notice is not required to be renewed annually.

Certificate of notice

(3) Every clerk of a municipality, upon receiving the notice shall deliver a certificate to the person giving the notice to the effect that the notice has been given and showing the date thereof.

Penalty for wilful false statements in notice

(4) Any person who fraudulently gives such notice, or wilfully makes any false statement therein, does not thereby secure any exemption from the rates and in addition is guilty of an offence and liable to a fine of not more than $100.

As to rates imposed before Protestant separate school established

(5) Nothing in this section exempts any person from paying any rate for public school purposes imposed before the establishment of the Protestant separate school. R.S.O. 1970, c. 430, s. 5, *amended*.

Withdrawal of support

136. A Protestant separate school supporter who desires to withdraw his support from a Protestant separate school shall give notice thereof in writing to the clerk of the municipality in which he resides on or before the 30th day of September in any year, otherwise he shall be deemed to be a Protestant separate school supporter. R.S.O. 1970, c. 430, s. 6.

Index book

137.—(1) The clerk of each municipality in which a Protestant separate school is established shall keep an index book to record the name of each Protestant who has declared himself to be a supporter of a Protestant separate school in the same manner *mutatis mutandis* as is provided for the keeping of an index of each Roman Catholic who has declared himself to be a supporter of a Roman Catholic separate school.

Inspection

(2) The index book shall be open to inspection by any ratepayer.

Filing of notices

(3) The clerk shall file and carefully preserve all notices given to the clerk of the municipality under sections 135 and 136. R.S.O. 1970, c. 430, s. 7 (1-3).

Clerk to be guided by index book

(4) The clerk and the appropriate assessment commissioner shall be guided by the entries in the index book in ascertaining those who have given the prescribed notices. R.S.O. 1970, c. 430, s. 7 (4); 1972, c. 76, s. 1, *amended*.

Not to share in public school assessment

138.—(1) Protestant separate schools shall not share in money raised by local municipal assessment for public school purposes.

Share of legislative grants

(2) Every Protestant separate school shall share in the legislative grants in like manner as a public school. R.S.O. 1970, c. 430, s. 8.

Reports

139.—(1) Every Protestant separate school board and principal of a Protestant separate school in a municipality shall transmit reports to the Ministry in such form and at such times as may be required by the Minister.

Use of assessor's roll by board

(2) The clerk or other officer of the municipality in which a Protestant separate school is established who has possession of the assessor's or collector's roll of the municipality shall allow any trustee or the authorized collector of the board to make a copy of the roll. R.S.O. 1970, c. 430, s. 9, *amended*.

140. Every person who is assessed as a Protestant separate school supporter and whose name appears on the list of voters of the municipality in which the land in respect of which he or she is assessed is situate, and the wife or husband of such supporter, if she or he is a Protestant, is entitled to vote at the election of trustees for the Protestant separate school board and on any school question having to do with the Protestant separate school or board. R.S.O. 1970, c. 430, s. 10, *amended*. Qualification of a voter

141.—(1) A Protestant separate school trustee shall have the same qualifications as a public school trustee, except that he shall be a supporter of a Protestant separate school. Qualification of a trustee

(2) A Protestant separate school board shall have the same number of trustees as a Roman Catholic separate school board would have if established in the same municipality, and the trustees may be elected in the same manner as Roman Catholic separate school trustees may be elected, and the provisions of Part IV with respect to the election of trustees of Roman Catholic rural and urban separate schools apply *mutatis mutandis* to the election of trustees of Protestant rural and urban separate school boards. R.S.O. 1970, c. 430, s. 11. Election of trustees

142. The trustees of every Protestant separate school board are a body corporate under the name of "The Protestant Separate School Board of the....." (*inserting the name of the city, town, village or township*). R.S.O. 1970, c. 430, s. 12. Corporate name of board

143. A Protestant separate school board has the same powers as a district school area board. R.S.O. 1970, c. 430, s. 13, *amended*. Powers of board

144. A Protestant separate school board is discontinued in the same manner as a Roman Catholic separate school board is discontinued and may be re-established in the manner provided in section 134. R.S.O. 1970, c. 430, s. 14. Discontinuing board

145. Subsections 3 and 4 of section 97, subsection 2 of section 98, sections 120, 121 and 122 and clause *d* of subsection 1 of section 171 apply in respect of Protestant separate schools and Protestant separate school boards. R.S.O. 1970, c. 430, s. 15. Application of other sections

PART VI

BOARDS

Duties and Powers

Duties of boards:

146. Every board shall,

appoint secretary-treasurer

1. appoint a secretary and a treasurer or a secretary-treasurer who, in the case of a board of not more than five elected members, may be a member of the board;

security of treasurer

2. take proper security from the treasurer or secretary-treasurer;

order payment of bills

3. give the necessary orders on the treasurer for payment of all moneys expended for school purposes and of such other expenses for promoting the interests of the schools under the jurisdiction of the board as may be authorized by this Act or the regulations and by the board;

meetings

4. fix the times and places for the meetings of the board and the mode of calling and conducting them, and ensure that a full and correct account of the proceedings thereat is kept;

head office

5. establish and maintain a head office and notify the Ministry of its location and address and notify the Ministry of any change in the location or address of the head office within ten days of such change;

provide instruction and accommodation

6. provide instruction and adequate accommodation during each school year for the pupils who have a right to attend a school under the jurisdiction of the board;

repair property

7. keep the school buildings and premises in proper repair and in a proper sanitary condition, provide suitable furniture and equipment and keep it in proper repair, and protect the property of the board;

insurance

8. make provision for insuring adequately the buildings and equipment of the board and for insuring the board and its employees and volunteers who are assigned duties by the principal against claims in respect of accidents incurred by pupils while under the jurisdiction or supervision of the board;

conduct schools

9. ensure that every school under its charge is conducted in accordance with this Act and the regulations;

10. keep open its schools during the whole period of the school year determined under the regulations, except where it is otherwise provided under this Act; school open

11. appoint for each school that it operates a principal and an adequate number of teachers, all of whom shall be qualified according to this Act and the regulations; appoint principal and teachers

12. provide, without charge, for the use of the pupils attending the school or schools operated by the board, the textbooks that are required by the regulations to be purchased by the board; provide textbooks

13. where it furnishes transportation for pupils in a vehicle that is owned by the board, provide and carry with an insurer licensed under *The Insurance Act* for each such vehicle at least the amount of insurance that is required to be provided in respect of such a vehicle by the licensee of a school vehicle under *The Public Vehicles Act*; vehicle insurance R.S.O. 1970, cc. 224, 392

14. ascertain and report to the Ministry at least once in each year the names and ages of all children of compulsory school age within its jurisdiction who are not enrolled in any school or private school and the reasons therefor; report children not enrolled

15. transmit to the Minister all reports and returns required by this Act and the regulations; reports

16. issue to an employee, upon the termination of his employment with the board, a statement of the sick leave credits standing to his credit with the board at the time of such termination. R.S.O. 1970, c. 385, s. 51 (1) (*a*, *c*), (3) (*c*); R.S.O. 1970, c. 424, ss. 33, 34, par. 2; R.S.O. 1970, c. 425, s. 6 (1); R.S.O. 1970, c. 430, s. 50 (3) (*d*); 1972, c. 77, s. 17; 1973, c. 37, s. 6 (2), *amended*. statement of sick leave credits

147.—(1) A board may, Powers of boards:

1. appoint such committees as it considers expedient; R.S.O. 1970, c. 424, s. 34, par. 1. committees

2. subject to Part X, appoint and remove such officers and servants and, subject to Part IX, appoint and remove such teachers, as it considers expedient, determine the terms on which such officers, servants and teachers are to be employed, prescribe their duties and fix their salaries, except that in the case of a secretary of a board who is a member of the appoint employees

board, the board may pay only such compensation for his services as is approved by the electors at a meeting of the electors; R.S.O. 1970, c. 385, s. 35 (2); 1972, c. 77, s. 18 (1), *amended*.

voluntary assistants

3. permit a principal to assign to a person who volunteers to serve without remuneration such duties in respect of the school as are approved by the board and to terminate such assignment; 1972, c. 77, s. 18 (2).

supervisors

4. appoint supervisors of the teaching staff for positions that are provided for in any Act or regulation administered by the Minister and every appointee shall hold the qualifications and perform the duties required in the Act or regulations; R.S.O. 1970 c. 424, s. 34, par. 20.

psychiatrist or psychologist

5. appoint one or more,

i. psychiatrists who are on the register of specialists in psychiatry of The Royal College of Physicians and Surgeons of Canada or of the College of Physicians and Surgeons of Ontario,

ii. psychologists who are legally qualified medical practitioners or hold a certificate of registration under *The Psychologists Registration Act*; R.S.O. 1970, c. 424, s. 34, par. 3, *amended*.

R.S.O. 1970, c. 372

schools and attendance areas

6. determine the number and kind of schools to be established and maintained, and the attendance area for each school; R.S.O. 1970, c. 424, s. 34, par. 5, *amended*.

courses of study

7. provide instruction in courses of study that are prescribed or approved by the Minister, developed from curriculum guidelines issued by the Minister or approved by the board where the Minister permits the board to approve courses of study;

computer programming

8. enter into an agreement in respect of the use of a computer or a system of computer programming; *New*.

playgrounds, parks, rinks

9. operate the school ground as a park or playground and rink during the school year or in vacation or both, and provide and maintain such equipment as it considers advisable, and provide such supervision as it considers proper, provided the proper conduct of the school is not interfered with; R.S.O. 1970, c. 424, s. 34, par. 8; 1973, c. 92, s. 10 (1).

10. organize and carry on gymnasium classes in school buildings for pupils or others during the school year or in vacation or both, and provide supervision and training for such classes, provided the proper conduct of the school is not interfered with; R.S.O. 1970, c. 424, s. 34, par. 9; 1973, c. 92, s. 10 (2). gymnasiums

11. purchase milk to be consumed by the pupils in the schools under the jurisdiction of the board during school days in accordance with the terms and conditions prescribed by the regulations; R.S.O. 1970, c. 424, s. 34, par. 10. milk

12. provide school supplies, other than the textbooks that it is required to provide under paragraph 12 of section 146, for the use of pupils; provision of supplies, etc.

13. establish and maintain school libraries and resource centres; R.S.O. 1970, c. 424, s. 34, pars. 11, 12, *amended*. libraries

14. establish kindergartens and junior kindergartens; R.S.O. 1970, c. 385, s. 51 (2) (*c*) (i), *amended*. kindergartens, junior kindergartens

15. provide that the signature of the treasurer and of any other person authorized to sign cheques issued by the treasurer may be written or engraved, lithographed, printed or otherwise mechanically reproduced on cheques; 1972, c. 77, s. 18 (8). signatures mechanically reproduced

16. pay the travelling expenses and membership fees of any member of the board or of any teacher or officer of the board, incurred in attending meetings of an educational association and may make grants and pay membership fees to any such organization; membership fees and travelling expenses

17. pay the costs, or any part thereof, incurred by any member of the board or by any teacher, officer or other employee of the board in successfully defending any legal proceeding brought against him, legal costs

    i. for libel or slander in respect of any statements relating to the employment, suspension or dismissal of any person by the board published at a meeting of the board or of a committee thereof, or

    ii. for assault in respect of disciplinary action taken in the course of duty;

invest funds

R.S.O. 1970, c. 470

18. invest funds received from an insurance claim, gift, legacy or sale of property in such securities as a trustee may invest in under *The Trustee Act*; R.S.O. 1970, c. 424, s. 34, pars. 15-17.

idem

R.S.O. 1970, c. 254

19. invest moneys not required immediately by the board in bonds, debentures or other evidences of indebtedness of, or guaranteed by, the Government of Canada or the Province of Ontario, in term deposits with any chartered bank or in term deposits with, or guaranteed investment certificates or debentures of, any trust company or loan corporation that is registered under *The Loan and Trust Corporations Act*, or lend such moneys to any municipality or board by way of promissory note of the municipality or board, provided that the bonds, debentures or other evidences of indebtendness, term deposits, guaranteed investment certificates or promissory notes, become due and payable before the moneys invested therein are required by the board, and all interest thereon shall be credited to the fund from which the moneys are invested; 1971, c. 90, s. 5 (1); 1973, c. 92, s. 10 (3).

borrowing from funds

20. notwithstanding any other Act, borrow, for any purpose for which the board has authority to spend money, any moneys in any fund established by the board that are not immediately required by the board for the purposes of such fund, but such borrowing shall not extend beyond the term of office of the members of the board and, where secondary school moneys are borrowed for public school purposes or public school moneys are borrowed for secondary school purposes, the board shall pay interest to the fund from which such moneys are borrowed at a rate not less than that being earned by the fund at the date of borrowing; 1973, c. 92, s. 10 (4).

student fees

21. subject to the provisions of this Act and the regulations, fix the fees to be paid by or on behalf of pupils, and the times of payment thereof, and when necessary enforce payment thereof by action in the small claims court, and exclude any pupil by or on behalf of whom fees that are legally required to be paid are not paid after reasonable notice; R.S.O. 1970, c. 424, s. 34, par. 21; 1971, c. 90, s. 5 (2), *amended*.

permit use of school and school buses

22. permit the school buildings and premises and school buses owned by the board to be used for any educational or other lawful purpose; R.S.O. 1970, c. 424, s. 34, par. 23, *amended*.

23. provide for surgical treatment of children attending the school who suffer from minor physical defects, where in the opinion of the teacher and, where a school nurse and medical officer are employed, of the nurse and medical officer, the defect interferes with the proper education of the child, and include in the estimates for the current year the funds necessary for cases where the parents are not able to pay, provided that no such treatment shall be undertaken without the consent of the parents or guardian of the child; R.S.O. 1970, c. 385, s. 51 (2) (*g*). surgical treatment

24. establish and maintain cadet corps; R.S.O. 1970, c. 424, s. 34, par. 25, *amended*. cadet corps

25. provide for the promotion and encouragement of athletics and for the holding of school games; athletics

26. provide, during the school year or at other times, activities and programs on or off school premises, including field trips, and exercise jurisdiction over those persons participating therein; activities

27. appoint one or more teachers qualified in guidance according to the regulations to collect and distribute information regarding available occupations and employments, and to offer such counsel to the pupils as will enable them to plan intelligently for their educational and vocational advancement; R.S.O. 1970, c. 424, s. 34, pars. 26-28. guidance

28. conduct free lectures open to the public and include in the estimates for the current year the expenses thereof; R.S.O. 1970, c. 424, s. 34, par. 29, *amended*. public lectures

29. establish summer schools for pupils; summer schools

30. establish and conduct during the school year courses for teachers; courses for teachers

31. establish evening classes; R.S.O. 1970, c. 424, s. 34, pars. 30-32. evening classes

32. erect and maintain any wall or fence considered necessary by the board for enclosure of the school premises; R.S.O. 1970, c. 424, s. 33, par. 9. erect fences

33. contribute toward the support of school fairs; R.S.O. 1970, c. 385, s. 51, (2), (*e*). school fairs

student activities

34. authorize such school activities as pertain to the welfare of the pupils and exercise jurisdiction in respect thereof; R.S.O. 1970, c. 424, s. 34, par. 33, *amended*.

cafeteria

35. operate a cafeteria for the use of the staff and pupils; R.S.O. 1970, c. 424, s. 34, par. 35.

records management

36. institute a program of records management that will, subject to the regulations in respect of pupil records,

i. provide for the archival retention by the board or the Archivist of Ontario of school registers, minute books of the board and its predecessors, documents pertaining to boundaries of school sections, separate school zones and secondary school districts, original assessment and taxation records in the possession of the board and other records considered by the board to have enduring value or to be of historical interest, and

ii. establish, with the written approval of the auditor of the board, schedules for the retention, disposition and eventual destruction of records of the board and of the schools under its jurisdiction other than records retained for archival use; 1972, c. 77, s. 18 (5).

education of children in charitable organizations

37. employ and pay teachers, when so requested in writing by a charitable organization having the charge of children of school age, for the education of such children, whether such children are being educated in premises within or beyond the limits of the jurisdiction of the board, and pay for and furnish school supplies for their use; R.S.O. 1970, c. 424, s. 34, par. 38.

programs in detention homes

R.S.O. 1970, c. 369

1974, c. 2

38. employ and pay teachers to conduct an education program in a juvenile detention and observation home established under *The Provincial Courts Act*, a psychiatric facility as defined in the regulations and a facility designated under *The Developmental Services Act, 1974* in which an educational program is not provided by the Ministry, provide instructional supplies and consultative help for the pupils therein and permanent improvements for the classrooms connected therewith; 1972, c. 77, s. 18 (6), *amended*.

39. provide for maternity leave for a teacher, not exceeding two years for each pregnancy; R.S.O. 1970, c. 424, s. 34, par. 40, *amended*. maternity leave

40. establish, subject to the regulations, special education programs to provide special education services for children who require such services; R.S.O. 1970, c. 424, s. 34, par. 42. special education

41. when requested by the board of a cerebral palsy treatment centre school, a crippled children's treatment centre school, a hospital school or a sanatorium school, and with the approval of the Minister, by agreement, assume the assets and liabilities of such board and continue to operate such a school, and, upon the effective date of the agreement between the two boards, the board making the request is dissolved; 1971, c. 90, s. 5 (4). assumption of treatment centres, etc.

42. where a recreation committee or a joint recreation committee has been appointed for territory without municipal organization within the jurisdiction of the board, exercise the powers and duties of a municipal council with respect to preparing estimates of the sums required during the year for the purposes of the committee or joint committee, and levying rates and collecting taxes for such purposes on the rateable property supporting the board in such territory, and where such a joint recreation committee has been appointed, apportion the costs of such committee by agreement with the other board concerned; R.S.O. 1970, c. 424, s. 34, par. 45. recreation committees

43. with the approval of the Minister, enter into an agreement with a university, college of a university, or the board of governors of a polytechnical institute or of a college of applied arts and technology in respect of the provision, maintenance and use of educational or recreational facilities on the property of either of the parties to the agreement. agreement for provision and use of recreational facilities

44. pass a resolution referred to in subsection 2 of section 81 of *The Municipal Elections Act, 1972*. *New*. election recounts 1972, c. 95

(2) In addition to any other remedy possessed by a board in territory without municipal organization for the recovery of rates imposed under the authority of this Act, the board, with the approval of the Minister, may bring an action in a court of competent jurisdiction for the recovery of any rates in arrear against the person assessed therefor. R.S.O. 1970, c. 424, s. 35, *amended*. Collection of rates in territory without municipal organization by action

148.—(1) Any person may, with the approval of the board concerned, establish scholarships, bursaries or prizes. Establishment of scholarships, etc.

Idem

(2) A board may award bursaries or prizes to its pupils under such terms and conditions as the board may prescribe. R.S.O. 1970, c. 425, s. 68.

Vocational Courses

Vocational courses

149.—(1) A secondary school board may provide vocational courses of study in one or more of its schools.

Courses of study

(2) Vocational courses of study may comprise,

(*a*) full-time day courses of study;

(*b*) part-time day courses of study; and

(*c*) evening courses of study.

Admission procedures

(3) A secondary school board may provide for the admission of a pupil to a vocational course and may determine the procedures for admission to such course. R.S.O. 1970, c. 425, s. 11 (1, 2).

Admission of adult

(4) Where a principal of a school is satisfied that an adult is competent to receive instruction in a vocational course, the adult may, without regard to his school standing, be admitted to,

(*a*) a special full-time day course of study;

(*b*) a part-time day course of study; or

(*c*) an evening course of study,

in the school. R.S.O. 1970, c. 425, s. 12 (4).

Advisory committee

150.—(1) A secondary school board that provides or plans to provide a vocational course may, by resolution, appoint an advisory committee to be known as the advisory committee for.....(*inserting the name of the vocational course*) and composed of such persons, all or any of whom may be members of the board, appointed for such term, not extending beyond the term of office of the members of the board, as the board considers necessary to advise the board on matters relating to the vocational course.

Allowance

(2) A secondary school board may pay to each person appointed under subsection 1 who is not a member of the board such allowance as the board may determine for each month for which he is appointed, but such allowance shall not exceed one-half of the amount determined under subsection 1 of section 164 based on the enrolment on the 30th day of September in the preceding year in all secondary schools that, on the 1st day of January of the current year, are operated by the board. 1972, c. 75, s. 4, *amended*.

Benefits

151. A board may, Powers of board

1. provide, by contract with an insurer licensed under *The Insurance Act*, accident, etc., insurance R.S.O. 1970, c. 224

   i. group accident insurance to indemnify a member of a board or of an advisory committee appointed by a board or his estate against loss in case he is accidentally injured or killed, and

   ii. group public liability and property damage insurance to indemnify a member of a board or of an advisory committee appointed by a board or his estate in respect of loss or damage for which he has become liable by reason of injury to persons or property or in respect of loss or damage suffered by him by reason of injury to his own property,

   while travelling on the business of the board or in the performance of his duties as a member of the board or of an advisory committee either within or outside the area over which the board has jurisdiction; R.S.O. 1970, c. 424, s. 34, par. 36.

2. where, in co-operation with business, industry or other enterprise, it provides for pupils training programs designed to supplement the courses given in its schools, provide, by contract with an insurer under *The Insurance Act*, accident insurance to indemnify such pupils against loss in case they are accidentally injured while participating in such a program and public liability insurance to insure such pupils and the board against loss or damage to the person or property of others while the pupils are participating in such a program; R.S.O. 1970, c. 424, s. 34, par. 39, *amended*. accident and public liability insurance re work-experience programs

3. provide, by contract with an insurer under *The Insurance Act*, accident and life insurance for pupils, the cost of which is to be paid on a voluntary basis by the parents or guardians. R.S.O. 1970, c. 424, s. 34, par. 41. Insurance for pupils

152.—(1) Subject to *The Health Insurance Act, 1972*, a board by resolution may provide, Insurance, hospital and health services 1972, c. 91

(*a*) by contract either with an insurer licensed under *The Insurance Act* or with an association registered

R.S.O. 1970, c. 360

under *The Prepaid Hospital and Medical Services Act*,

(i) group life insurance for its employees or any class thereof,

(ii) group accident insurance or group sickness insurance for its employees or any class therof and their spouses and children, and

(iii) hospital, medical, surgical, nursing or dental services, or payment therefor, for employees or any class thereof and their spouses and children; and

(*b*) for payment by the board of the whole or part of the cost of any insurance or services provided under this subsection.

Contributions re insured services

1972, c. 91

(2) A board may by resolution provide for paying the whole or part of the cost to employees of insured services under *The Health Insurance Act, 1972*. 1972, c. 77, s. 24.

Participation of retired person in contract

(3) A board may retain a person who retires from employment with the board before he attains the age of sixty-five years in a group established for the purposes of a contract referred to in clause *a* of subsection 1 until he attains such age if he pays the full premium required to be paid to retain his participation in the contract. 1973, c. 92, s. 13.

Pensions

R.S.O. 1970, c. 324

153.—(1) A board, by resolution, may provide pensions for employees or any class thereof under *The Ontario Municipal Employees Retirement System Act*.

Idem

R.S.O. 1970, c. 284

(2) Notwithstanding subsection 1, a board that makes contributions to an approved pension plan, as defined in subsection 1 of section 250 of *The Municipal Act*, may continue to provide pensions under such plan, and the said section 250 applies *mutatis mutandis*. 1972, c. 77, s. 23.

Interpretation

(3) In this section, "employee" does not include a teacher or supervisory officer or an administrative officer who holds a certificate of qualification as a teacher and who is eligible to contribute to the Teachers' Superannuation Fund.

Employees of newly organized board

(4) An employee of a divisional board who was a contributor or who was entitled to be a contributor under *The Ontario Municipal Employees Retirement System Act*, by reason of his employment with a former board on the 31st day of December, 1968, shall continue to be a contributor or to be entitled to be a contributor, as the case may

be, and the divisional board shall assume in respect of such employee all the rights and obligations of the former board, but in respect of other employees, the divisional board, before such employees may participate under such Act, shall pass a resolution electing to become a participant under such Act, as required by the regulations made thereunder, and stating the effective date.

Assumption of board of rights and obligations of former board

(5) A divisional board that is required to make the contribution of a former board to an approved pension plan, as defined in section 250 of *The Municipal Act*, in respect of an employee who was a contributor to such approved pension plan on the 31st day of December, 1968, shall assume all the rights and obligations of such former board under the approved pension plan in respect of such employee. R.S.O. 1970, c. 424, s. 43 (2-4).

R.S.O. 1970, c. 284

Saving

(6) Nothing in this section affects any pension plan established and approved by the Minister before the 6th day of April, 1954 under section 39 of *The High Schools Act*, section 129 of *The Public Schools Act* or section 83 of *The Separate Schools Act*. R.S.O. 1970, c. 424, s. 99 (1).

R.S.O. 1950, cc. 165, 316, 356

Retirement allowances

154.—(1) A board may grant an annual retirement allowance, payable weekly, monthly or otherwise for such period as the board may determine, to any employee of the board who has been in the service of the board for at least twenty years and who,

(*a*) is retired because of age; or

(*b*) while in the service has become incapable through illness or otherwise of efficiently discharging his duties,

provided that no retirement allowance shall be granted under this section which, together with the amount of any pension payments payable to the employee in any year under a pension plan of the board or any municipality or under *The Teachers' Superannuation Act*, will exceed three-fifths of his average annual salary for the preceding three years of his service.

R.S.O. 1970, c. 455

Widow or widower

(2) Where an employee,

(*a*) has been granted an annual retirement allowance under subsection 1 and subsequently dies; or

(*b*) would have been eligible, except for his death, for such an allowance,

the board may grant to the widow or widower of such employee for such period as the board may determine an annual allowance, not exceeding one-half of the maximum allowance that may be granted under subsection 1.

Interpretation

(3) In subsection 1, "pension payments" means, in the case of pension payments under a board or municipal plan, only such payments that result from joint contributions of the employer and employee and does not include any such payments that result solely from contributions of the employee.

Limitation on application of section

(4) Where the board has a pension plan in operation, or where a municipality has a pension plan in operation in which the employees of the board are included, this section applies only to employees who were in the employ of the board on or before the 1st day of July, 1954, and in any event does not apply to any employee who enters the service of the board after the 1st day of July, 1956. R.S.O. 1970, c. 424, s. 45.

Idem

R.S.O. 1950, cc. 165, 316

(5) Nothing in this section affects any retirement allowance granted before the 6th day of April, 1954 under section 60 of *The High Schools Act* or section 128 of *The Public Schools Act*. R.S.O. 1970, c. 424, s. 99 (3).

Sick leave credits

155.—(1) A board, by resolution, may establish a system of sick leave credit gratuities for employees or any class thereof provided that on the termination of his employment no employee is entitled to more than an amount equal to his salary, wages or other remuneration for one-half the number of days standing to his credit and in any event not in excess of the amount of one-half year's earnings at the rate received by him immediately prior to termination of employment.

Allowing of credits on transfer of employment

(2) Where an employee of a board that has established a sick leave credit plan under this or any other general or special Act becomes an employee of another board that has also established a sick leave credit plan under this or any other general or special Act, the latter board shall, subject to the limitation in subsection 5, place to the credit of the employee the sick leave credits standing to the credit of the employee in the plan of the first-mentioned board. R.S.O. 1970, c. 424, s. 44 (1, 2).

Where transferred because of change in jurisdiction of board

(3) Notwithstanding subsection 2, where the contract of employment of an employee of a board has become an obligation of another board by or under any Act, the latter board shall place to the credit of the employee the sick leave credits and the termination of employment benefits standing to his credit in the system of sick leave credit gratuities of the first-mentioned board. 1973, c. 118, s. 1.

(4) Where an employee of a municipality or a local board, as defined in *The Municipal Affairs Act*, except a school board, that has established a sick leave credit plan under any general or special Act, becomes an employee of a board that has established a sick leave credit plan under this or any other general or special Act, the board shall, subject to the limitation in subsection 5, place to the credit of the employee the sick leave credits standing to the credit of the employee in the plan of such municipality or local board. Idem R.S.O. 1970, c. 118

(5) The amount of sick leave credits placed to the credit of an employee under subsection 2 or 4 shall not exceed the amount of cumulative sick leave credits permitted under the plan to which the credits are placed. Limitation

(6) Subsections 2 and 4 apply only where the transfer of employment from a school board to another school board or from a municipality or a local board to a school board is made without intervening employment that interrupts the continuity of employment under which sick leave credits are accumulated. Application of subss. 2, 4, where intervening employment

(7) Notwithstanding subsection 6, intervening employment with the Ministry of Education does not preclude the application of subsections 2 and 4. R.S.O. 1970, c. 424, s. 44 (3-6). Exception

(8) Where an employee of a board that, before the 1st day of June, 1968, had established a sick leave credit plan became, on the 1st day of January, 1969, an employee of a divisional board or of a county or district combined separate school board, such board shall place to the credit of the employee the sick leave credits and the termination of employment benefits standing to his credit in the plan of the first-mentioned board. R.S.O. 1970, c. 425, s. 30 (11); R.S.O. 1970, c. 430, s. 86 (10). Applicability of sick leave credits

(9) Nothing in this section affects any sick leave credit plan established and approved by the Minister before the 6th day of April, 1954 under section 40 of *The High Schools Act*, section 130 of *The Public Schools Act* or section 84 of *The Separate Schools Act*. R.S.O. 1970, c. 424, s. 99 (2). Idem R.S.O. 1950, cc. 165, 316, 356

Agreements

156.—(1) A board may, subject to subsection 2, enter into an agreement with another board to provide, for the other board for such periods and under such conditions as are specified in the agreement, Agreements to provide accommodation or services for another board

(*a*) accommodation for administrative purposes;

(*b*) accommodation for instructional purposes;

(*c*) the services of teachers and other personnel; or

(*d*) the transportation of pupils,

that the board by this Act is authorized or required to provide for its own pupils.

Where building, additions, etc., required

(2) Where the construction of a school building or an addition, alteration or improvement to a school building is required under an agreement made under subsection 1, the agreement shall make provision for the payment of the cost of such building, addition, alteration or improvement and is not effective until approved by the Minister. 1972, c. 77, s. 19, *amended*.

Where cost borne by board not providing accommodation

(3) Where, under an agreement, the board that does not provide the additional accommodation is required to bear and pay the cost thereof, the additional accommodation shall, for the purposes of issuing debentures, be deemed to be a permanent improvement of such board. R.S.O. 1970, c. 385, s. 6.

Fees, exception

(4) An agreement under this section may, notwithstanding the regulations, provide for the calculation and payment of fees in respect of pupils covered by the agreement. R.S.O. 1970, c. 385, s. 6 (1) (*c*), *amended*.

Interpretation

157.—(1) In this section,

(*a*) "board" includes The Metropolitan Toronto School Board;

(*b*) "municipality" includes a county and a district, metropolitan or regional municipality and a local board of a municipality or county or of a district, metropolitan or regional municipality, except a school board.

Agreements for joint use of facilities, etc.

(2) One or more boards and the council of a municipality or the councils of two or more municipalities may enter into an agreement,

(*a*) in respect of the use of existing facilities owned by one of such parties; or

(*b*) for the purpose of establishing and providing for the maintenance and operation of facilities on the property of any of the parties to such agreement,

for such cultural, recreational, athletic, educational, administrative or other community purposes as are set out in the agreement, and such agreement shall include provision for,

(*c*) the acquisition of any land that may be required for the purposes of the agreement, and the manner of approving and the method of apportioning the cost thereof;

(*d*) the manner of approving and the method of apportioning the cost of the construction, maintenance and operation of the facilities;

(*e*) the manner in which each party to the agreement shall pay its portion of the costs referred to in clauses *c* and *d* and the times when such costs shall be paid;

(*f*) the regulation, control and use of the facilities including the charging of fees for admission thereto; and

(*g*) the duration of the agreement and the manner in which and the terms upon which it may be terminated.

Approval of Minister

(3) Where, pursuant to an agreement made under this section, a permanent improvement is required, it shall not be proceeded with until such plans and specifications therefor as are required by the Minister have been approved by the Minister.

Previous agreement

(4) This section does not affect an agreement entered into before the 23rd day of June, 1972,

R.S.O. 1970, c. 295

(*a*) under subsection 2 of section 143 of *The Municipality of Metropolitan Toronto Act*; or

(*b*) between a board and the council of a municipality, including a regional municipality or a county, or a a local board thereof, for fulfilling, executing or completing, at their joint expense or at the expense of either of the parties to the agreement, any undertaking for the joint benefit of the parties to the agreement, including the joint use of educational and municipal facilities,

but after the 23rd day of June, 1972, an amendment to an agreement referred to in clause *a* or *b* or an agreement to which the said subsection 2 of section 143 applies may be made only in accordance with this section. 1972, c. 77, s. 20.

Facilities deemed community recreation centre

(5) Where an agreement under this section or an agreement referred to in subsection 4 between one or more boards and one or more municipalities provides for the use of existing facilities or for the establishment of facilities, such facilities or any of them that come within the definition of community recreation centre under *The Community*

1974, c. 80

Recreation Centres Act, 1974 may be considered by the Minister of Community and Social Services as a community recreation centre for the purposes of making grants under section 6 of that Act. *New*.

Agreement between public school boards

158.—(1) A public school board may enter into an agreement with another public school board under which one public school board shall furnish education for pupils of the other upon payment by such other public school board on behalf of such pupils of fees calculated in accordance with the regulations. R.S.O. 1970, c. 385, s. 5 (12), *amended*.

Agreement between separate school boards

(2) A separate school board may enter into an agreement with another separate school board under which one separate school board shall furnish education for pupils of the other upon payment by such other separate school board on behalf of such pupils of fees calculated in accordance with the regulations. R.S.O. 1970, c. 430, s. 25 (12), *amended*.

Admission of pupils to Indian schools

R.S.C. 1970, c. I-6

(3) The board of an elementary school may provide for the admission of one or more of its pupils to a school for Indian children established, operated and maintained under the *Indian Act* (Canada), subject to the approval of the authority having control of such school, and the accommodation provided under such arrangement shall be in lieu of the accommodation that the board is required by this Act to provide for such pupils.

Levy for fees, transportation, etc.

(4) The board of an elementary school may levy and collect upon the property rateable for the purposes of the board such sum as may be necessary to pay the fees of its pupils who attend schools for Indian children pursuant to subsection 3 and to pay for the transportation of such pupils to and from such schools as well as such other sums as the board considers expedient or as may be required by this Act.

Closing of school by board

(5) Where a board has arranged under this section for the admission of all its pupils to a school or schools that the board does not operate, the board may close its schools for the period during which such arrangement or arrangements are in effect. R.S.O. 1970, c. 385, s. 53, *amended*.

Agreements for education of public and separate school pupils

159. A public school board and a separate school board may enter into an agreement in respect of the provision of education in a public or separate school under the jurisdiction of either board for pupils of the other board in a course or courses that are not available in a school under the jurisdiction of the board requiring the provision of education or that are considered by such board to be not readily accessible to the pupils in respect of whom the agreement is made where,

(*a*) the appropriate supervisory officer of the board providing education certifies that accommodation is available in such school for such pupils; and

(*b*) the board requiring the provision of education pays for each such pupil a fee calculated in accordance with the regulations. R.S.O. 1970, c. 385, s. 5 (13); R.S.O. 1970, c. 430, s. 25 (13), *amended*.

Secondary school agreements

160.—(1) The board of a secondary school district that is not a school division may, in lieu of establishing and maintaining a school, enter into an agreement with another secondary school board to provide for the instruction of its pupils in the schools under the jurisdiction of that board and for the payment in respect of such pupils of fees calculated in accordance with the regulations.

Agreements for education at outside schools

(2) A secondary school board that has established one or more secondary schools may enter into an agreement with another secondary school board to provide for the instruction, in the school or schools maintained by the latter board, of resident pupils of the first-mentioned board and for the payment in respect of such pupils of fees calculated in accordance with the regulations. R.S.O. 1970, c. 425, s. 60, *amended*.

Agreements re pupils in federal establishments

161. A board may enter into an agreement with the Crown in right of Canada for such periods and under such conditions as are specified in the agreement whereby the board may provide for the education of pupils who reside on land held by the Crown in right of Canada in a school or schools operated by the board on land owned by the board or by the Crown in right of Canada. R.S.O. 1970, c. 424, s. 38.

Agreements re accommodation for Indian pupils

162.—(1) A board may enter into an agreement with the Crown in right of Canada for a period specified in the agreement to provide accommodation and tuition for the maximum number of Indian pupils agreed upon, and the fees therefor shall be calculated in accordance with the regulations.

Idem

(2) A board may enter into an agreement with the Crown in right of Canada for a period specified in the agreement to provide for a payment from the Crown in right of Canada to provide additional classroom accommodation and to provide tuition for a maximum of thirty-five Indian pupils for each additional classroom so provided, and the fees therefor shall be calculated in accordance with the regulations, but exclusive of expenditures for the erection of school buildings for instructional purposes and additions thereto. R.S.O. 1970, c. 424, s. 37 (1, 2); 1971, c. 90, s. 6 (1, 2), *amended*.

Cost of special services

(3) A board shall not enter into an agreement under subsection 1 or 2 that requires the board to provide special services for Indian pupils that it does not provide for its resident

pupils unless, in addition to the fees referred to in subsection 1 or 2, the cost of such services is payable by the Crown in right of Canada. 1973, c. 92, s. 11, *amended*.

Appointment of representative of Indian pupils

(4) Where a board has entered into one or more agreements under this section, the council of the Indian band, or the councils of the Indian bands, to which the Indian pupils, or a majority of the Indian pupils, who are, pursuant to the agreement or agreements, enrolled in the schools operated by the board, belong, may, subject to subsection 5, name one person to represent on the board the interests of the Indian pupils and, where a person is so named, the board shall, subject to subsection 6, appoint the person a member of the board, and the member so appointed shall be deemed to be an elected member of the board, except that,

(*a*) where the agreement or agreements under this section are in respect of secondary school pupils only, the member so appointed is a trustee for secondary school purposes only and shall not vote on a motion or otherwise take part in any proceedings that affect public schools exclusively; and

(*b*) where the agreement or agreements under this section are in respect of elementary school pupils only, the member so appointed is a trustee for elementary school purposes only and shall not vote on a motion or otherwise take part in any proceedings that affect secondary schools exclusively.

Additional representative

(5) Where the number of Indian pupils enrolled in the schools under the jurisdiction of a divisional board or a county or district combined separate school board pursuant to one or more agreements made under this section exceeds 25 per cent of the average daily enrolment in the schools of the board, two persons may be named under subsection 4, and subsection 4 applies *mutatis mutandis* in respect of such persons.

Where appointment in discretion of board

(6) Where the number of Indian pupils enrolled in the schools under the jurisdiction of the board pursuant to one or more such agreements is fewer than the lesser of 10 per cent of the average daily enrolment in the schools of the board and 100, the appointment under subsection 4 may be made at the discretion of the board.

Enrolment

(7) Where the agreement is, or the agreements are, in respect of elementary school pupils only or secondary school pupils only, the enrolment referred to in subsections 5 and 6 shall be that of elementary school pupils only or secondary school pupils only, as the case may be.

(8) A member of the board appointed under subsection 4, 5 or 6 is in addition to the number of members of the board otherwise provided for in this Act and the term of office of such member terminates on the same date as the term of office of the elected members. 1972, c. 77, s. 21. Appointed members in addition to elected members

(9) Where the office of a member of a board appointed under this section becomes vacant for any reason, it shall be filled in accordance with subsection 4, and the person so appointed shall hold office for the remainder of the term of his predecessor. *New*. Vacancy in office

Transportation

163.—(1) A board may provide for, Transportation of pupils

(*a*) a resident pupil of the board who is enrolled in a school that the board operates or in a school operated by another board to which the board pays fees in respect of such pupil; and

(*b*) a pupil in respect of whom the Minister pays the cost of education under the regulations,

transportation to and from the school that the pupil attends and to and from an activity that is part of the program of such school. R.S.O. 1970, c. 424, s. 42 (1), *amended*.

(2) A board may provide for a person who is qualified to be a resident pupil of the board transportation to and from the Ontario School for the Blind, an Ontario School for the Deaf, a facility designated under *The Developmental Services Act, 1974*, and a psychiatric facility designated as such under *The Mental Health Act*. Idem 1974, c. 2 R.S.O. 1970, c. 269

(3) A secondary school board may assist in the provision of transportation for children who are qualified to be resident pupils of the board to and from a centre operated by a local association that is affiliated with the Ontario Association for the Mentally Retarded. *New*. Idem

(4) For the purposes of this section, a board may purchase a vehicle either from current revenue or from a debenture issued for that purpose. Purchase of bus

(5) Subject to subsection 6, for the purposes of this section, a board may make an agreement or agreements for one school year or less with a corporation, commission or person for the transportation of such pupils. Agreements

(6) Where a board provides transportation for more than thirty pupils, the board may, with the approval of the Ontario Municipal Board, make an agreement for a term not exceeding five years for the transportation of such pupils. Agreements not exceeding five years

Boarding of secondary school pupils residing in territorial district

(7) Where a pupil resides in a school section or separate school zone in a territorial district but not in a school division with his parent or guardian in a residence that is fifteen miles or more by road or rail from a secondary school that he is eligible to attend, an elementary school board may, in lieu of providing daily transportation to and from school under subsection 1, reimburse the parent or guardian at the end of each month for the cost of providing for such pupil, board, lodging, and transportation once a week from his residence to school and return, in an amount set by the board for each day of attendance as certified by the principal of the secondary school that the pupil attends.

Idem

(8) Where a pupil resides in a territorial district but not in a school section, a separate school zone or a school division, with his parent or guardian in a residence that is fifteen miles or more by road or rail from a secondary school that he is eligible to attend, the board of the secondary school that he attends may reimburse the parent or guardian at the end of each month for the cost of providing for such pupil, board, lodging, and transportation once a week from his residence to school and return, in an amount set by the board for each day of attendance as certified by the principal of the secondary school that the pupil attends.

Idem

(9) Where a pupil resides with his parent or guardian in a school division in a residence that,

(*a*) in a territorial district is fifteen miles or more; or

(*b*) in a county is thirty miles or more,

by road or rail from a secondary school that he attends, or where a pupil resides with his parent or guardian on an island in a school division, the board of the school division of which he is a resident pupil may, in lieu of providing daily transportation to and from the secondary school that he attends, reimburse the parent or guardian at the end of each month for the cost of providing for such pupil, board, lodging, and transportation once a week from his residence to school and return, in an amount set by the board for each day of attendance as certified by the principal of the secondary school that the pupil attends.

Boarding and transportation of secondary school pupils in a territorial district taking "francais" subject

(10) Where a secondary school pupil resides in a territorial district in a school division with his parent or guardian in a residence that is fifteen miles or more by road or rail from a secondary school in which the subject of French, taught as a subject for students who normally speak the French language, is offered as one of the subjects of the courses of study, an elementary school board may reimburse the parent or guardian at the end of each month for the cost of providing for such

pupil, when not so provided by the secondary school board, board, lodging, and transportation once a week from his residence to school and return, in an amount set by the board for each day of attendance as certified by the principal of the secondary school that the pupil attends, or may furnish transportation for such pupil in lieu thereof.

Boarding of elementary school pupils residing in territorial districts

(11) Where a pupil resides in a territorial district but not in a school section or a separate school zone, with his parent or guardian in a residence from which daily transportation to and from an elementary school that he may attend is impracticable due to distance or terrain, as certified by the appropriate supervisory officer of the elementary school nearest such residence, the board of the elementary school that he attends may reimburse the parent or guardian at the end of each month for the cost of providing for such pupil, board, lodging, and transportation once a week from his residence to school and return, in an amount set by the board for each day of attendance as certified by the principal of the elementary school that the pupil attends.

Boarding of elementary school pupils where transportation impracticable

(12) Where a pupil resides in a school section or a separate school zone with his parent or guardian in a residence from which daily transportation to and from an elementary school that he may attend is impracticable due to distance or terrain, as certified by the supervisory officer who has jurisdiction in the school section or the separate school zone, the board of the elementary school of which he is a resident pupil may reimburse the parent or guardian at the end of each month for the cost of providing for such pupil, board, lodging, and transportation once a week from his residence to school and return, in an amount set by the board for each day of attendance as certified by the principal of the elementary school that the pupil attends.

Certification of attendance

(13) For the purpose of certifying attendance under subsections 7 to 12, the principal may add to the number of days of attendance of a pupil the number of days the pupil is excused from attendance under the regulations or is absent by reason of being ill or is absent for any other cause if the principal is of the opinion that the absence was unavoidable. R.S.O. 1970, c. 424, s. 42 (5-14), *amended*.

Allowances

Allowance for members

164.—(1) A board may pay to each member of the board for each month an allowance not exceeding an amount based on the enrolment on the 30th day of September in the preceding year in all the schools which, on the 1st day of January of the current year, are operated by the board, as follows:

Enrolment	Maximum Monthly Allowance
Fewer than 2,000	$100
2,000 or more but fewer than 10,000	200
10,000 or more but fewer than 40,000	400
40,000 or more	600

Chairman, additional allowance

(2) A board may pay to its chairman, in addition to any allowance that may be paid to him as a member, an additional allowance not exceeding one-half of the allowance that may be paid to him as a member.

Travel expenses to attend board meetings

(3) In respect of travel of a member of the board to and from his residence to attend a meeting of the board, or a committee thereof, that is held within the area of jurisdiction of the board, the board may,

(*a*) reimburse the member for his expenses necessarily incurred therefor or such lesser amount as may be determined by the board; or

(*b*) pay the member a mileage allowance at a rate determined by the board.

Expenses for authorized travel on board business

(4) A board may authorize a member, teacher or official of the board to travel on designated business of the board, and may reimburse the member, teacher or official for his actual expenses incurred on business of the board, or such lesser amount as may be determined by the board.

Deduction because of absence

(5) A board may provide for a deduction of a reasonable amount from the allowance of a member because of absence from regular or committee meetings of the board.

Advisory committee members

(6) Subsections 3, 4 and 5 apply *mutatis mutandis* to members of a committee established by the board who are not members of the board. R.S.O. 1970, c. 424, s. 40, *amended*.

Property

School lands granted before 1850 vested in board for school purposes

165.—(1) All lands that before the 24th day of July, 1850, were granted, devised or otherwise conveyed to any person or persons in trust for common school purposes and held by such person or persons and their heirs or other successors in the trust, and have been heretofore vested in a public school board or a board of education having jurisdiction in the municipality in which the lands are situate, continue to be vested in such board, and continue to be held by it and its successors upon the like trusts and subject to the same conditions and for the estates upon or subject to or for which the lands are respectively held. R.S.O. 1970, c. 385, s. 9 (1).

Property in trust vested in board

(2) All property heretofore granted or devised to, acquired by or vested in any person or corporation,

(*a*) for the secondary school purposes of a secondary school district or any part thereof; or

(*b*) for the separate school purposes in a separate school zone,

is vested in the board having jurisdiction in the secondary school district or separate school zone, as the case may be. R.S.O. 1970, c. 430, s. 50 (1) (*i*), *part*; 1972, c. 75, s. 3, *amended*.

Possession of property

166.—(1) A board may take possession of all property acquired or given for school purposes and hold and apply it according to the terms on which it was acquired or given. R.S.O. 1970, c. 385, s. 51 (2) (*a*).

Idem

(2) A separate school board has power to acquire and hold as a corporation, by any title whatsoever, land, movable property, money or income given to or acquired by the board at any time for school purposes and hold or apply the same according to the terms on which it was acquired or received. R.S.O. 1970, c. 430, s. 50 (1) (*i*), *part*.

Appropriation of property

(3) A board of education may appropriate any property acquired by it or in its possession or control for any of the purposes of the board but, where public school property is appropriated for secondary school purposes, the value of the property so appropriated or the revenue derived therefrom shall be applied for public school purposes and, where secondary school property is appropriated for public school purposes, the value of the property so appropriated or the revenue derived therefrom shall be applied for secondary school purposes. R.S.O. 1970, c. 425, s. 23, *amended*.

Disposal of lands patented to boards for school purposes

167.—(1) Lands originally granted or conveyed by the Crown for school purposes and held by a board may be leased, sold or otherwise disposed of with the approval of the Lieutenant Governor in Council and upon such conditions as to the investment or application of the proceeds or otherwise as may be prescribed in the order granting the approval. R.S.O. 1970, c. 385, s. 9 (2).

Application for removal of restrictions on use of school lands

(2) Where land, the use of which is restricted by deed in any manner to school purposes so as to appear that some other person may have an interest therein, has been vested in a board for at least fifty years, the board may apply to the Supreme Court to remove the restriction, and the Supreme Court may make such order on the application as it considers just including, where the land adjoins land being used as a farm, a requirement that the board shall, where the board intends to sell the land, first offer it at a reasonable price to the owner or owners of such adjoining land. R.S.O. 1970, c. 385, s. 10, *amended*.

Lease or sale of site or property

(3) Subject to subsection 4, a board has power to sell, lease or otherwise dispose of any school site or part thereof or property of the board upon the adoption of a resolution that such site or part or property is not required for the purposes of the board, and the board shall apply the proceeds thereof for the purposes of the board and shall advise the Minister of the sale, conveyance or transfer, or of the lease where the term thereof exceeds one year, of any of its schools. R.S.O. 1970, c. 385, s. 51 (2) (*b*); R.S.O. 1970, c. 425, s. 9 (2); R.S.O. 1970, c. 430, s. 50 (1) (*i*), *part, amended*.

Disposal of buildings
1953, c. 119

(4) Notwithstanding any general or special Act, including *The Metropolitan Separate School Board Act, 1953*, a board shall not sell, lease or otherwise dispose of a building or part thereof other than to another board or demolish a building, unless, in addition to any other approval that may be required, the board has obtained the approval of the Minister.

Exceptions

(5) Subsection 4 does not apply,

(*a*) to the use of a building or part thereof pursuant to an agreement under section 157; or

(*b*) where a building or part thereof is in use as a school, to the use of the building or part for any purpose that does not interfere with the proper conduct of the school. 1973, c. 92, s. 2, *amended*.

Board may purchase or expropriate within its jurisdiction

168.—(1) Subject to the provisions of Part IV as to the selection of a site by a rural separate school board, every board may acquire, by purchase or lease, or may expropriate, a school site that is within its area of jurisdiction.

Purchase or lease of site in adjoining jurisdiction

(2) A public school board, board of education or secondary school board may, with the approval of the Minister, acquire by purchase or lease a school site in an adjoining school section or secondary school district, as the case may be, for the purpose of operating a school thereon, but the board shall not expropriate any such site.

Separate school board may purchase or expropriate within its designated area

(3) A county or district combined separate school board may acquire by purchase or lease, or may expropriate, a school site that is within the area designated in respect of such board by regulation made under subsection 2 of section 103 but that is not within the county or district combined separate school zone, for the purpose of operating a school thereon. 1972, c. 77, s. 27, *part*.

School outside designated area

(4) A county or district combined separate school board may, with the approval of the Minister, acquire by purchase or lease a school site that is outside the area designated in respect of such board by regulation made under subsection 2 of section 103 and may operate thereon a separate school, but a county or district combined separate school board shall not expropriate any such site.

(5) Notwithstanding section 80, the operation of a separate school on a school site acquired under subsection 4 does not, thereby, establish a separate school zone with a centre at such site. 1972, c. 76, s. 28, *part*. Zone not established

(6) Subject to section 169, a board may erect, add to or alter buildings for its purposes on land owned by the board. Buildings on land owned by board

(7) A board may erect a school building on land that is leased by the board where the term of the lease, the school site and the plans of the school building are approved by the Minister. 1973, c. 92, s. 16, *amended*. Buildings on leased land

(8) A board may, with the approval of the Minister, make an addition, alteration or improvement to a school building that is acquired by the board under a lease. 1972, c. 77, s. 27, *part, amended*. Additions or alterations

169. Where a board plans to provide, other than by way of a lease, accommodation for pupils on a school site that is not to be occupied or used exclusively by the board, the board shall obtain the prior approval of the Minister to enter into negotiations with a person, other than a board or a municipality, in respect of the provision of such accommodation, and an agreement for such purposes may be entered into with such person only after the proposed agreement, the plans of the school and of the building of which it may be a part and the site have been approved by the Minister. 1972, c. 77, s. 28. Agreement for multi-use building

Out-of-Classroom Programs

170.—(1) A board may acquire by purchase or by lease land in any municipality or territory without municipal organization in Ontario for the purpose of conducting a natural science program and other out-of-classroom programs as the board may direct, and for such purposes may, with the approval of the Minister, build and operate the necessary facilities. Acquisition of land for natural science programs

(2) Two or more boards may enter into an agreement for a specified period whereby one of the boards may acquire by purchase or by lease land in any municipality or territory without municipal organization in Ontario for the purpose of conducting a natural science program and other out-of-classroom programs and, for such purposes, such board may, with the approval of the Minister, build and operate the necessary facilities. Agreements between boards

(3) All land acquired by a board under subsection 1 or 2, so long as it is held by the board and is not situated, Taxation

(*a*) within the jurisdiction of the board or within the jurisdiction of another board with which the board has entered into an agreement under subsection 2; or

(*b*) in the case of a separate school board, within the area designated in respect of such board by regulation made under subsection 2 of section 103,

is subject to taxation for municipal and school purposes in the municipality in which it is situate.

Agreements with conservation authorities, etc.

(4) A board may enter into an agreement with a conservation or other appropriate authority under which the board may, with the approval of the Minister, construct and maintain on lands owned by the authority the necessary facilities for the purpose of conducting a natural science program or other out-of-classroom program.

Idem

(5) A board that conducts a natural science, conservation or other out-of-classroom program may enter into an agreement with a conservation or other appropriate authority for the use of the facilities and personnel of such authority for the purpose of conducting such a program as directed by the board. 1972, c. 77, s. 29.

Idem

(6) One or more boards may enter into an agreement with a conservation or other appropriate authority to provide for the construction, furnishing and equipping by the authority on lands owned by the authority of facilities for the purposes of conducting a natural science, conservation or other out-of-classroom program as directed by the board or one or more of the boards and, where under the agreement a board is required to pay all or part of the cost of the facilities, the construction of the facilities shall be first approved by the Minister, and the amount paid therefor by the board shall be deemed to be an expenditure made by the board for a permanent improvement. *New*.

Board and lodging for courses in conservation

(7) A board may provide or pay for board and lodging for a pupil for a period not exceeding two weeks in any year while he participates, with the consent of his parent or guardian and with the permission of the board, in a natural science, conservation or other out-of-classroom program. R.S.O. 1970, c. 424, s. 34, par. 34.

Officers

Duties of secretary

171.—(1) The secretary of a board is responsible for,

(*a*) keeping a full and correct record of the proceedings of every meeting of the board in the minute book provided for that purpose by the board and ensuring that the minutes when confirmed are signed by the chairman or presiding member;

(*b*) transmitting to the Ministry copies of reports requested by the Ministry;

(*c*) giving notice of all meetings of the board to each of the members by notifying him personally or in writing or by sending a written notice to his residence;

(*d*) calling a special meeting of the board on the request in writing of the majority of the members of the board; and

(*e*) performing such other duties as may be required of him by the regulations, by this Act or by the board. R.S.O. 1970, c. 424, s. 51; R.S.O. 1970, c. 430, s. 32, *amended*.

Security by officers

(2) Every treasurer and collector of a board and, if required by the board, any other officer of a board shall give security for the faithful performance of his duties, and the security shall be deposited for safekeeping as directed by the board.

Form of security

R.S.O. 1970, c. 196

(3) The security to be given shall be by the bond, policy or guarantee contract of a guarantee company as defined in *The Guarantee Companies Securities Act*. R.S.O. 1970, c. 424, s. 52.

Failure to take security

(4) If a board refuses or neglects to take proper security from the treasurer or other person to whom it entrusts school moneys and any school money is forfeited or lost in consequence of the refusal or neglect, every member of the board is personally liable for such moneys, which may be recovered by the board or by any ratepayer assessed for the support of the school or schools under the jurisdiction of the board suing on behalf of himself and all other such ratepayers in a court of competent jurisdiction, but no member is liable if he proves that he made reasonable efforts to procure the taking of the security. R.S.O. 1970, c. 424, s. 59.

Duties of treasurer

(5) Every treasurer of a board shall,

(*a*) receive and account for all school moneys;

(*b*) open an account or accounts in the name of the board in such of the chartered banks of Canada or in such other place of deposit as may be approved by the board;

(*c*) deposit all moneys received by him on account of the board, and no other moneys, to the credit of such account or accounts;

(*d*) disburse all moneys as directed by the board; and

(*e*) produce, when required by the board or by auditors or other competent authority, all papers and moneys in his possession, power or control belonging to the board. R.S.O. 1970, c. 424, s. 53.

Business administrator

(6) Where a board determines that one or more persons should be employed full time to carry out the duties of a secretary or treasurer or both, it may appoint one or more business administrators and one or more assistant business administrators and may assign to a person so appointed any of the duties of the secretary, treasurer and supervisor of maintenance of school buildings. R.S.O. 1970, c. 424, s. 41.

Responsibility of officers

172. Every officer appointed by a board is responsible to the board through its chief executive officer for the performance of the duties assigned to him by the board. *New.*

School Board Advisory Committees

Interpretation

173. In sections 174 to 178, "committee" means a school board advisory committee established under section 174. R.S.O. 1970, c. 424, s. 83 (*b*).

Committee establishment

174. A board of education, a county or district combined separate school board or the Metropolitan Separate School Board may establish a school board advisory committee. R.S.O. 1970, c. 424, s. 84.

Composition

175.—(1) The committee shall be composed of,

(*a*) three members of the board appointed by the board;

(*b*) the chief education officer of the board or his nominee;

(*c*) six teachers employed by the board, appointed by the teachers in the employ of the board;

(*d*) four persons appointed by the board who are neither teachers nor members of a board, but who are resident within the jurisdiction of the board; and

(*e*) the persons appointed under subsections 2 and 3. R.S.O. 1970, c. 424, s. 85 (1).

Separate school board

(2) In the case of a separate school board,

(*a*) where the Diocesan Council or Councils of the Federation of Catholic Parent-Teacher Associations

of Ontario organized in the area of jurisdiction of the board so recommend, the board shall appoint to the committee one person selected by the Council or Councils;

(*b*) where the Federation des Associations de Parents et Instituteurs de langue francaise de l'Ontario organized in the area of jurisdiction of the board so recommends, the board shall appoint one person selected by the regional section and, where there is no regional section, by the local section of such Federation; and

(*c*) where no recommendation and appointment is made under clause *a*, a recommendation and appointment of two persons may be made under clause *b* and, where no recommendation and appointment is made under clause *b*, a recommendation and appointment of two persons may be made under clause *a*. 1972, c. 77, s. 34 (1).

(3) In the case of a board of education, Board of education

(*a*) where the Diocesan Council or Councils of the Federation of Catholic Parent-Teacher Associations of Ontario organized in the area of jurisdiction of the board so recommends, the board shall appoint to the committee one person selected by the Council or Councils;

(*b*) where the Home and School Council organized in the area of jurisdiction of the board so recommends, the board shall appoint to the committee one person selected by the Council;

(*c*) where the Federation des Associations de Parents et Instituteurs de langue francaise de l'Ontario organized in the area of jurisdiction of the board so recommends, the board shall appoint one person selected by the regional section and, where there is no regional section, by the local section of such Federation; and

(*d*) where no appointment is made under any two of clause *a*, *b* or *c*, two members may be appointed under the remaining clause. R.S.O. 1970, c. 424, s. 85 (3); 1972, c. 77, s. 34 (2).

(4) The teachers shall submit to the board, not later than the 31st day of January in each year, the names of the appointees under clause *c* of subsection 1. Notice of teacher appointees

Appointment and term of office

(5) Members of the committee shall be appointed on or before the 31st day of January in each year and shall hold office for one year.

Reappointment

(6) Except for the chief education officer, a member of the committee shall not hold office for more than three years in succession.

Vacancies

(7) Every vacancy on a committee occasioned by the death or resignation of a member, or by any other cause, shall be filled by a person qualified under subsection 1 and appointed by the body or person that appointed the member whose office has become vacant, and every person so appointed shall hold office for the unexpired portion of the term of such member. R.S.O. 1970, c. 424, s. 85 (4-7).

First meeting

176.—(1) The chairman of the board shall call the first meeting of the committee not later than the 28th day of February in each year, and shall preside at such meeting until the chairman of the committee is elected.

Chairman

(2) The chairman of the committee shall be elected by the committee at its first meeting in each year.

Quorum

(3) Eight members of the committee constitute a quorum and a vote of the majority of the members present is necessary to bind the committee.

Sub-committees

(4) The committee may establish such sub-committees as it considers necessary. R.S.O. 1970, c. 424, s. 86.

Recording secretary

177.—(1) The board shall provide a recording secretary for the committee.

Budget

(2) The committee shall, as required by the board, submit to the board for approval a budget of its estimated expenditures for the calendar year.

Expenditures

(3) The board shall pay such expenditures of the committee as are approved by the board. R.S.O. 1970, c. 424, s. 87.

Powers of committee

178.—(1) The committee may make reports and recommendations to the board in respect of any educational matter pertaining to the schools under the jurisdiction of the board.

Limitation

(2) Notwithstanding subsection 1, the committee shall not concern itself with salaries of employees of the board or with matters pertaining to personnel problems and policies relating to personnel.

(3) The board shall consider any report or recommendation submitted to it by the committee and shall not refuse its approval without having given the committee, or its representatives, an opportunity to be heard by the board. R.S.O. 1970, c. 424, s. 88.

Consideration of reports

Access to Meetings and Records

179.—(1) The meetings of a board and meetings of a committee of the board, including a committee of the whole board, shall be open to the public except where a board determines that certain meetings of a committee of the board, including a committee of the whole board, shall not be open to the public, and no person shall be excluded from a meeting that is open to the public except for improper conduct.

Open meetings of boards

(2) The presiding officer may expel or exclude from any meeting any person who has been guilty of improper conduct at the meeting. R.S.O. 1970, c. 424, s. 47, *amended*.

Exclusion of persons

(3) Any person may, at all reasonable hours, at the head office of the board inspect the minute book, the audited annual financial report and the current accounts of a board, and, upon the written request of any person and upon the payment to the board at the rate of 25 cents for every 100 words or at such lower rate as the board may fix, the secretary shall furnish copies of them or extracts therefrom certified under his hand. R.S.O. 1970, c. 424, s. 54; 1972, c. 77, s. 25.

Inspection of books and accounts

Board Meetings

180.—(1) A board shall be deemed to be constituted when a majority of the members to be elected or appointed has been elected or appointed.

When board deemed constituted

(2) Where a board is elected or appointed,

First meeting

(*a*) on or before the 31st day of December in any year, to be established in the following year, it shall hold its first meeting at 8.00 p.m. on the second Wednesday in January of the following year; and

(*b*) on or after the 1st day of January in any year, to be established in that year, it shall hold its first meeting at 8.00 p.m. on the second Wednesday following the election or appointment.

Supervisory officer may provide for calling first meeting

(3) Notwithstanding subsection 2, on the petition of a majority of the members of a newly elected or appointed board, the appropriate supervisory officer may provide for calling the first meeting of the board at some other time and date.

Presiding officer

(4) At the first meeting in each year, the chief executive officer shall preside until the election of the chairman or, if there is no chief executive officer or in his absence, the members present shall designate who shall preside at the election of the chairman and if a member of the board is so designated, he may vote at the election of the chairman.

Election of chairman

(5) At the first meeting in each year and at the first meeting after a vacancy occurs in the office of chairman, the members shall elect one of themselves to be chairman, and the chairman shall preside at all meetings.

Subsequent meetings

(6) Subsequent meetings of the board shall be held at such time and place as the board considers expedient.

Vice-chairman

(7) The members of the board may also elect one of themselves to be vice-chairman and he shall preside in the absence of the chairman.

Where equality of votes

(8) In the case of an equality of votes at the election of a chairman or vice-chairman, the candidates shall draw lots to fill the position of chairman or vice-chairman, as the case may be.

Temporary chairman

(9) If at any meeting there is no chairman or vice-chairman present, the members present may elect one of themselves to be chairman for that meeting.

Temporary secretary

(10) In the absence of the secretary from any meeting, the chairman or other member presiding may appoint any member or other person to act as secretary for that meeting.

Quorum

(11) The presence of a majority of all the members constituting a board is necessary to form a quorum, except that when a board of education is dealing with matters that affect public schools exclusively, the presence of a majority of the members elected to the board of education by the public school electors is necessary to form a quorum.

(12) Subject to subsection 4 of section 53, the presiding officer, except where he is the chief executive officer of the board and is not a member, may vote with the other members of the board upon all motions, and any motion on which there is an equality of votes is lost. R.S.O. 1970, c. 424, s. 48 (1-12), *amended*. Chairman, voting; equality of votes

(13) Special meetings of the board may be called by the chairman and in such other manner as the board may determine. R.S.O. 1970, c. 424, s. 48 (13); R.S.O. 1970, c. 430, s. 49, *amended*. Special meetings

181.—(1) Except as provided in subsection 2, every person elected or appointed to a board, on or before the day fixed for the first meeting of the new board, or on or before the day of the first meeting that he attends, shall make and subscribe the following declaration before the secretary of the board or before any person authorized to administer an oath and in default he shall be deemed to have resigned: Declaration

DECLARATION

I, ...*A.B.*....., do solemnly declare that:

1. I am not disqualified under any Act from being a member of (*name of board*).

2. I will truly, faithfully, impartially and to the best of my ability execute the office of trustee, and that I have not received and will not receive any payment or reward or promise thereof for the exercise of any partiality or malversation or other undue execution of the said office.

Declared before me at .....in the County or District of .....this .....day of ....., 19.. } *A.B.*

(2) Where a person is elected or appointed to fill a vacancy on a board, he shall make such declaration on or before the day fixed for holding the first meeting of the board after his election or appointment or on or before the day of the first meeting that he attends and in default he shall be deemed to have resigned. Idem

Oath of allegiance

(3) Every person elected or appointed to a board, before entering on his duties as a trustee, shall take and subscribe before the secretary of the board or before any person authorized to administer an oath the oath of allegiance in the following form:

I,.....*A.B.*....., do swear that I will be faithful and bear true allegiance to Her Majesty, Queen Elizabeth II (*or the reigning sovereign for the time being*).

Sworn before me at .....in the County or District of .....this .....day of ....., 19.. } *A.B.*

Filing of declaration and oath

(4) The declaration and oath of allegiance shall be filed with the secretary of the board within eight days after the making or taking thereof, as the case may be. R.S.O. 1970, c. 424, s. 49.

Arbitrators

Arbitrators to send copy of award to board, etc.

182.—(1) Arbitrators acting under this Act shall send a copy of their award forthwith after the making thereof to the chief executive officer of the board and to the clerk of each municipality affected. R.S.O. 1970, c. 424, s. 102 (1); 1972, c. 77, s. 35.

Liability of parties for costs

(2) Such arbitrators shall determine the costs of the arbitration and shall direct to whom and by whom and in what manner such costs or any part thereof, and the fees under subsection 4, shall be paid, and such determination and direction is final.

Expenses

(3) An arbitrator is entitled to an allowance of 15 cents for each mile necessarily travelled by him to and from his residence to attend meetings of arbitrators together with his actual expenses for room and meals, incurred while attending such meetings, and such costs shall be included in the costs of the arbitration.

Fees

(4) Each arbitrator, shall be paid a fee,

(*a*) in the case of the Ontario Municipal Board, as determined by the Board;

(*b*) in the case of an arbitrator other than a supervisory officer, judge or member of the Ontario Municipal Board, at the rate of $20 for each sitting of a half-day or fraction thereof.

Application

(5) This section does not apply to a Board of Reference or the members thereof. R.S.O. 1970, c. 424, s. 102 (2-5), *amended*.

(6) This section, except subsection 4, applies to treasurers of municipalities who meet to arbitrate the apportionment of costs within a school division. *New.* Application to treasurers

Offences and Penalties

183. Every person who wilfully makes a false statement in a declaration required to be made under this Act is guilty of an offence and on summary conviction is liable to a fine of not more than $100. R.S.O. 1970, c. 424, s. 89, *amended.* False declaration

184.—(1) Every person who wilfully interrupts or disquiets the proceedings of a school or class is guilty of an offence and on summary conviction is liable to a fine of not more than $100. Disturbances

(2) Every person who, with intent, to prevent the discussion of any matter or the passing of any motion at a meeting of a board, or a committee of a board including a committee of the whole board disrupts or endeavours to disturb or interrupt the meeting after having been expelled or excluded from the meeting is guilty of an offence and on summary conviction is liable to a fine of not more than $100. R.S.O. 1970, c. 424, s. 90, *amended.* Idem

185.—(1) Every member of a board who sits or votes at any meeting of the board after becoming disqualified from sitting is guilty of an offence and on summary conviction is liable to a fine of not more than $100 for every meeting at which he so sits or votes. R.S.O. 1970, c. 424, s. 91 (3), *amended.* Acting while disqualified

(2) Every member of a board who knowingly signs a false report and every teacher who keeps a false school register or makes a false return is guilty of an offence and on summary conviction is liable to a fine of not more than $100. R.S.O. 1970, c. 424, s. 94, *amended.* False reports and registers

186. Every member of a board and every officer thereof who, Information to auditors

(*a*) withholds from the auditor access, at all reasonable hours, to the books, records, documents and vouchers of the board; or

(*b*) refuses or neglects to provide such information and explanations as the auditor may require,

is guilty of an offence and on summary conviction is liable to a fine of not more than $100, but no person is liable if he proves that he has made reasonable efforts to procure the furnishing of the papers or information. R.S.O. 1970, c. 424, s. 93, *amended.*

Delivery up of books and money

187.—(1) A person who holds or has held the office of treasurer, secretary or secretary-treasurer, and a member or other person who has in his possession any book, paper, chattel or money that came into his possession as such treasurer, secretary, secretary-treasurer, member or otherwise shall not wrongfully withhold, or neglect or refuse to deliver up, or account for and pay over the same to the person and in the manner directed by the board or by other competent authority.

Summons for appearance

(2) Upon application to the judge by the board, supported by affidavit, showing such wrongful withholding or refusal, the judge may summon the treasurer, secretary, secretary-treasurer, member or person to appear before him at a time and place appointed by him.

Service of summons

(3) A bailiff of a small claims court, upon being required so to do by the judge, shall serve the summons or a true copy thereof on the person complained against personally or by leaving it with a person apparently not under the age of sixteen years.

Order to account

(4) At the time and place so appointed, the judge, if satisfied that service has been made, shall, in a summary manner, and whether the person complained against does or does not appear, hear the complaint, and if he is of the opinion that it is well founded may order the person complained against to deliver up, account for and pay over such book, paper, chattel or money by a day to be named by the judge in the order, together with such reasonable costs incurred in making the application as the judge may allow. R.S.O. 1970, c. 424, s. 96 (1-4).

Other remedy not affected

(5) Such proceedings do not impair or affect any other remedy that the board or other competent authority may have against the person complained against or against any other person. R.S.O. 1970, c. 424, s. 96 (8).

Compelling delivery of books, money, etc., on dissolution of school corporation

188.—(1) Section 187 applies to the case of any person who has in his possession any books, paper, chattel or money that came into his possession as secretary or treasurer, or member, or otherwise, of a board that has been dissolved, and every such person shall deliver up, account for and pay over every such book, paper, chattel and all such money as provided in this Act and failing any such provision, as directed by the Minister, and in default thereof, proceedings may be taken against the person by two ratepayers in the same manner as in the case provided for by section 187 and that section *mutatis mutandis* applies.

(2) Subsection 1 applies to every person who has received from such secretary, treasurer, member or other person any book, paper, chattel or money, which by subsection 1 it is declared to be the duty of such secretary, treasurer, member or other person to deliver up, and the like proceedings may be taken against such first-mentioned person. R.S.O. 1970, c. 424, s. 97, *amended*. Application of subs. 1

189.—(1) No teacher, supervisory officer or other employee of a board or of the Ministry shall, for compensation of any kind other than his salary as such employee, promote, offer for sale or sell, directly or indirectly, any book or other teaching or learning materials, equipment, furniture, stationery or other article to any board, provincial school or teachers' college, or to any pupil enrolled therein. Promotion or sale of books, etc., by employees of board or Ministry to board, pupil, etc., prohibited

(2) Subsection 1 does not apply to a teacher, supervisory officer or any other employee in respect of a book or other teaching or learning materials of which he is an author where the only compensation that he receives in respect thereof is a fee or royalty thereon. Exception for authors

(3) No person or organization or agent thereof shall employ a teacher, supervisory officer or other employee of a board or of the Ministry to promote, offer for sale or sell, directly or indirectly, any book or other teaching or learning materials, equipment, furniture, stationery or other article to any board, provincial school or teachers' college, or to any pupil enrolled therein, or shall, directly or indirectly, give or pay compensation to any such teacher, supervisory officer or employee for such purpose. Employment of employee of board or Ministry to promote sale of books, etc., to board, pupil, etc., prohibited

(4) Every person who contravenes any provision of subsection 1 or 3 is guilty of an offence and on summary conviction is liable to a fine of not more than $500. R.S.O. 1970, c. 424, s. 98, *amended*. Penalty

Validity of Elections

190.—(1) Any person entitled to vote at the election of members of a board may commence an action by writ in the county or district court in the county or district in which the head office of the board is situate for a declaration that the office of a member of such board has become vacant under section 112, 181, 192, 193 or 202. Action for declaration that seat vacant

(2) No action shall be commenced under this section more than ninety days after the facts alleged to cause the vacancy in the board came to the knowledge of the person bringing such action. Time for bringing action

Power of court

(3) Where in an action under this section the court finds that the office of a member of the board has become vacant, the court may order that the member be removed from office and declare that the office is vacant.

Application of 1972, c. 95

(4) The provisions of sections 105 to 108 and 112 of *The Municipal Elections Act, 1972* apply *mutatis mutandis* to an action brought under this section.

Joining of claims

(5) A claim in an action under this section may be joined with a claim in an action under section 104 of *The Municipal Elections Act, 1972*, and such claim may be heard and disposed of in the same action. 1973, c. 92, s. 14.

Validity of elections and corrupt practices

(6) The provisions of *The Municipal Elections Act, 1972* in respect of the validity of elections and corrupt practices apply to an election of trustees that is not conducted under *The Municipal Elections Act, 1972*. 1972, c. 137, s. 2; 1973, c. 37, s. 3, *amended*.

PART VII

BOARD MEMBERS—QUALIFICATIONS, RESIGNATIONS AND VACANCIES

Employee disqualified

191. An employee of a board is not eligible to be elected a member of the board by which he is employed or entitled to sit or vote thereon. 1972, c. 77, s. 26.

Qualifications of members

192.—(1) A person is qualified to be elected as a member of a board if he is,

(*a*) a Canadian citizen;

(*b*) of the full age of eighteen years;

(*c*) a resident within the area of jurisdiction of the board; and

(*d*) in the case of,

(i) a public school board, a public school elector,

(ii) a Roman Catholic separate school board, a separate school elector,

(iii) a member of a board of education to be elected by public school electors, a public school elector, and

(iv) a member of a board of education to be elected by separate school electors, a separate school elector. R.S.O. 1970, c. 385, s. 13 (1); R.S.O. 1970, c. 425, ss. 5 (1), 39 (1); R.S.O. 1970, c. 430, s. 19; 1971, c. 98, s. 4, Sched., pars. 27, 29, 31; 1972, c. 74, s. 2 (1); 1972, c. 75, s. 2 (1).

Members eligible for re-election

(2) A member of a board is eligible for re-election if otherwise qualified. R.S.O. 1970, c. 425, s. 39 (2).

Disqualification

(3) A person is not qualified to be elected or to act as a member of a board,

(*a*) who is,

(i) a member of any other board, or

(ii) a member of the council or an elected member of a local board as defined in *The Municipal Affairs Act*, of a municipality, including a metropolitan or regional municipality and The District Municipality of Muskoka, all or part of which is included in the area of jurisdiction of the board, R.S.O. 1970, c. 118

and whose term of office has at least two months to run after the last day for filing nominations for a new election unless before the closing of nominations he has filed his resignation with the secretary of the other board or with the clerk of the municipality, as the case may be;

(*b*) who is the clerk or treasurer of a county or municipality, including a metropolitan or regional municipality and The District Municipality of Muskoka, all or part of which is included in the area of jurisdiction of the board;

(*c*) who is a member of the Assembly or of the Senate or House of Commons of Canada; or

(*d*) who is otherwise ineligible or disqualified under this or any other Act. R.S.O. 1970, c. 385, s. 13 (2); R.S.O. 1970, c. 425, ss. 5 (2), 39 (3); 1972, c. 74, s. 2 (2, 3); 1972, c. 75, ss. 2 (2, 3), 12, *amended*.

Qualification to act as member

(4) A person is qualified to act as a member of a board during the term for which he was elected so long as he continues to hold the qualifications required for election as a member of the board and does not become disqualified under subsection 3. R.S.O. 1970, c. 385, s. 13 (3); R.S.O. 1970, c. 425, ss. 5 (3), 39 (4).

Person not to be candidate for more than one seat

(5) No person shall qualify himself as a candidate for more than one seat on a board, and any person who so qualifies himself and is elected to hold one or more seats on the board is not entitled to sit as a member of the board by reason of the election, and his seat or seats are thereby vacated. R.S.O. 1970, c. 425, s. 39 (5).

Exception

(6) Notwithstanding subsection 4, a member of a Roman Catholic separate school board who was elected or appointed prior to the coming into force of this Act shall not be disqualified during the term of office for which he was elected or appointed by reason of not holding the qualifications required under clause *c* or *d* of subsection 1. *New*.

Members to remain in office

193.—(1) The members of a board shall remain in office until their successors are elected and the new board is organized. R.S.O. 1970, c. 385, s. 19 (2), *amended*.

Board not to cease for want of members

(2) A board does not cease to exist by reason only of the lack of members. R.S.O. 1970, c. 385, s. 14.

Resignation of members

(3) A member of a board, with the consent of a majority of the members present at a meeting, entered upon the minutes of it, may resign as a member, but he shall not vote on a motion as to his own resignation and may not resign as a member if his resignation will reduce the number of members of the board to less than a quorum.

Resignation to become candidate for some other office

(4) Notwithstanding subsection 3, where it is necessary for a member of a board to resign to become a candidate for some other office, he may resign by filing his resignation, including a statement that he is resigning for the purpose of becoming a candidate for some other office, with the secretary of the board and the resignation shall become effective on the 31st day of December after it is so filed or the day preceding the day upon which the term of such office commences, whichever is the earlier. R.S.O. 1970, c. 424, s. 50, *amended*.

194.—(1) Subject to section 198, where, in respect of a board, the office of a member elected by public school electors, except a board composed of three members, becomes vacant from any cause before the expiration of the term for which he was elected and,

Vacancies on public and secondary school boards

(*a*) the remaining members elected by public school electors constitute a majority of the members of the board elected by public school electors, a majority of such remaining members shall at the first regular meeting after the vacancy occurs, appoint a qualified person to fill the vacancy; or

(*b*) there are no remaining members elected by public school electors or the remaining members elected by public school electors do not constitute a majority of the members elected by public school electors, a new election shall be held to fill the vacancy or vacancies,

and every member so appointed or elected shall hold office for the remainder of the term of his predecessor. R.S.O. 1970, c. 385, s. 22 (1); R.S.O. 1970, c. 425, s. 42 (1); 1972, c. 74, s. 8, *amended*.

(2) Subject to section 198, where, in respect of a board of education, the office of a member elected by separate school electors becomes vacant from any cause before the expiration of the term for which he was elected, and,

Vacancy in office of member elected by separate school electors

(*a*) the remaining members elected by separate school electors constitute a majority of the members elected by separate school electors, a majority of such remaining members shall at the first regular meeting after the vacancy occurs, appoint a qualified person to fill the vacancy; or

(*b*) there are no remaining members elected by separate school electors or the remaining members elected by separate school electors are not a majority of the members elected by separate school electors, the vacancy shall be filled by appointment by the board of the separate school zone that had the highest average daily enrolment for the preceding year of pupils

below the third year of the Intermediate Division who resided in the school division, as certified by the appropriate supervisory officer,

and the person so appointed shall hold office for the remainder of the term of his predecessor. R.S.O. 1970, c. 425, s. 42 (2), *amended*.

All offices vacant

(3) Subject to section 198 and notwithstanding subsection 2, where the offices of all members of a board of education become vacant from any cause, a new election shall be held to fill all such vacancies, and the members so elected shall hold office for the remainder of the term of their predecessors. R.S.O. 1970, c. 425, s. 42 (3).

Where election held to fill a vacancy
1972, c. 95

(4) Notwithstanding subsections 1 to 3, where the elections of a board are held under *The Municipal Elections Act, 1972*, a board may require that an election be held to fill a vacancy on the board and, where an election is so held, the provisions of that Act that pertain to an election to fill a vacancy apply. 1972, c. 74, s. 8; 1972, c. 75, s. 14; 1972, c. 76, s. 15.

Vacancies on board of district school area

195.—(1) Where a vacancy occurs from any cause in the office of a member of a district school area board composed of only three members, the remaining members shall forthwith hold a new election to fill the vacancy in the manner provided for holding the election of the board, and the person elected shall hold office for the remainder of the term of his predecessor.

Where one trustee or no trustee

(2) If at any time there are no remaining members, or only one remaining member, of the board of a district school area, any two electors of the district school area, or the appropriate supervisory officer, by giving six days notice posted up in at least three public places in the district school area, may call a meeting of the electors who shall elect three or two members, as the case may be, in the manner provided in subsection 1. R.S.O. 1970, c. 385, s. 33 (8, 9), *amended*.

Vacancy on separate school board other than rural

196. Subject to section 198, where the office of a trustee of a separate school board, other than a rural separate school board, becomes vacant from any cause before the expiration of the term for which he was elected and,

(*a*) the remaining members constitute a majority of the membership of the board, a majority of the remaining members shall, at the first regular meeting after the vacancy occurs, appoint a qualified person to fill the vacancy; or

(*b*) there are no remaining members or the remaining members do not constitute a majority of the membership of the board, a new election shall be held to fill the vacancy or vacancies,

and every member so appointed or elected shall hold office for the remainder of the term of his predecessor. R.S.O. 1970, c. 430, ss. 52 (3, 4), 91 (5), *amended*.

Vacancy on rural separate school board

197.—(1) Where a vacancy occurs from any cause in the office of a trustee,

(*a*) of a rural separate school before the trustees become a body corporate; or

(*b*) of a rural separate school board,

the remaining trustees shall forthwith take steps to hold a new election to fill the vacancy, and the person thereupon elected shall hold his seat for the remainder of the term of his predecessor.

Proceedings at new election

(2) The new election shall be conducted in the same manner and is subject to the same provisions as for an election of the whole board. R.S.O. 1970, c. 430, s. 52 (1, 2), *amended*.

Vacancy on board

198. Where a vacancy occurs on a board,

(*a*) within one month before the next ensuing election, it shall not be filled; or

(*b*) after the election, but before the new board is organized, it shall be filled immediately after the new board is organized in the same manner as for a vacancy that occurs after the board is organized. R.S.O. 1970, c. 430, ss. 52 (5) (*a*, *b*), 91 (5); 1972, c. 74, s. 8, *part*, *amended*.

Election to fill vacancy

199. Where an election is required to fill a vacancy on a board, except a board composed of only three members, the nomination shall be held on the third Monday following the day on which the office becomes vacant and the polling shall be held on the second Monday following the day of nomination, and the nomination and polling shall be held in the same manner and at the same times as for the office that became vacant. R.S.O. 1970, c. 425, s. 42 (4), *amended*.

Appointment of trustees on failure of qualified person

200. Where the appropriate supervisory officer reports that no persons duly qualified are available or that the electors have failed to elect members of a district school area board,

the Minister may appoint as members of the board such persons as he may consider proper, and the persons so appointed have, during the term of such appointment, all the authority of a board as though they were eligible and duly elected according to this Act. R.S.O. 1970, c. 385, s. 22 (4), *amended*.

When tie vote for vacancy on board

201. When, at a regular meeting of a board or at a special meeting called to fill a vacancy or vacancies on a district school area board, two or more candidates for office receive an equal number of votes, the chairman of the meeting shall provide for the drawing of lots to determine which of the candidates is elected. R.S.O. 1970, c. 385, s. 33 (10), *amended*.

Seat vacated by conviction

202.—(1) If a member of a board is convicted of an indictable offence, or becomes mentally ill, or absents himself without being authorized by resolution entered in the minutes, from three consecutive regular meetings of the board, or ceases to hold the qualifications required to act as a member of the board or becomes disqualified under subsection 3 of section 192, he thereby vacates his seat, and the provisions of this Act with respect to the filling of vacancies apply.

Proviso

(2) Notwithstanding subsection 1, where a member of a board is convicted of an indictable offence, the vacancy shall not be filled until the time for taking any appeal that may be taken from the conviction has elapsed, or until the final determination of any appeal so taken, and in the event of the quashing of the conviction the seat shall be deemed not to have been vacated. R.S.O. 1970, c. 424, s. 57, *amended*.

PART VIII

FINANCE

Interpretation

203.—(1) In this section, "board" means a divisional board and a county or district combined separate school board. *New*.

Appointment and dismissal of auditor

(2) Every board shall appoint an auditor who shall be a person licensed by the Ministry of Treasury, Economics and Intergovernmental Affairs as a municipal auditor and who shall hold office during good behaviour and be removable for cause upon the vote of two-thirds of the members of the board.

Disqualification of auditor

(3) No person shall be appointed as an auditor of a board who is or during the preceding year was a member of the board or who has or during the preceding year had any

direct or indirect interest in any contract or any employment with the board other than for services within his professional capacity, and every auditor, upon appointment, shall make and subscribe a declaration to that effect.

Duties of auditor

(4) An auditor of a board shall perform such duties as are prescribed by the Minister and by the Minister of Treasury, Economics and Intergovernmental Affairs and also such duties as may be required by the board that do not conflict with the duties prescribed by the Minister and by the Minister of Treasury, Economics and Intergovernmental Affairs.

Rights of auditor

(5) An auditor of a board has the right of access at all reasonable hours to all books, records, documents, accounts and vouchers of the board and is entitled to require from the members and officers of the board such information and explanation as in his opinion may be necessary to enable him to carry out his duties.

Auditor may take evidence

(6) An auditor of a board may require any person to give evidence on oath touching on any such matters, and for such purpose has the powers of a commission under Part II of *The Public Inquiries Act, 1971*, which Part applies to such inquiry as if it were an inquiry under that Act.

1971, c. 49

Auditor may attend meetings

(7) An auditor of a board is entitled to attend any meeting of the board or of a committee thereof and to receive all notices relating to any such meeting that any member is entitled to receive and to be heard at any such meeting that he attends on any part of the business of the meeting that concerns him as auditor.

Publication of financial statements

(8) The treasurer of every board in every year shall, within one month after receiving the auditor's report on the financial statements of the board, cause to be published or to be mailed or delivered to each ratepayer a copy of the financial statements of the board for the preceding year in such form as the Minister may prescribe, together with a copy of the report of the auditor.

Idem

(9) Where in any year a tax notice is mailed to each ratepayer before the 30th day of June, the treasurer may, in lieu of publishing, mailing or delivering a copy or summary and the report under subsection 8 cause to be included with such notice the copy or summary and the report.

Filing of financial statements

(10) The treasurer of every board in every year shall prepare the financial statements of the board and, upon receiving the auditor's report thereon, shall forthwith submit two copies

of the financial statements together with a copy of the auditor's report to the Ministry. R.S.O. 1970, c. 425, s. 36; R.S.O. 1970, c. 430, ss. 88, 89, *amended*.

Debentures

204.—(1) Subject to the approval of the Ontario Municipal Board, the sums required by a divisional board for permanent improvements may be raised by the issue of debentures by the divisional board in the manner provided for the issue of municipal debentures in *The Municipal Act*, and for the purposes of this section the duties imposed and powers conferred under *The Municipal Act* regarding the issuing of debentures and the use of moneys received from the sale or hypothecation of debentures, upon the Corporation, the head of council and the treasurer respectively are imposed and conferred upon the divisional board, the chairman of the divisional board and the treasurer of the divisional board respectively. R.S.O. 1970, c. 425, s. 35 (1); 1971, c. 68, s. 5 (1).

R.S.O. 1970, c. 284

Temporary advances pending sale of debentures

(2) The power conferred on a divisional board to issue debentures includes, pending the sale of debentures, the power to agree with a chartered bank or a person for temporary advances from time to time to meet expenditures incurred up to the total of the amount of the debentures authorized by the Ontario Municipal Board and any further amount that has been authorized by the Ontario Municipal Board. 1971, c. 68, s. 5 (2).

Notification of debt charges

(3) The clerk-treasurer or treasurer of each county and municipality in which a divisional board has jurisdiction shall notify the treasurer of the divisional board before the 1st day of January in each year of the amount of the principal and interest due and payable in that year in respect of debentures issued for school purposes by such county or municipality and the dates on which payments are due.

Payment of debt charges for debentures not issued by the board

(4) The treasurer of the divisional board shall pay to every county and municipality on or before the due date of payment the amount of the principal and interest as notified under subsection 3. R.S.O. 1970, c. 425, s. 35 (2, 3).

Withholding from debenture levy

(5) The council of each municipality, except a municipality in a school division, shall withhold from the amount levied and collected for a board sufficient funds to meet the annual debt charges payable in the current year by the municipality in respect of debentures issued for the purposes of the board. R.S.O. 1970, c. 424, s. 79 (1); 1971, c. 90, s. 12.

Deficiency payable by board

(6) Where the debt charges payable by a municipality referred to in subsection 5 on behalf of a board are more than the amount levied by the municipality for the cost of

operation of the board, the board shall make a payment equal to the deficiency to the municipality on or before the date or dates on which the debt charges are payable. R.S.O. 1970, c. 424, s. 79 (2).

Estimates

205.—(1) Every divisional board in each year shall prepare and adopt estimates of all sums required during the year for public school purposes and for secondary school purposes respectively, and such estimates,

(*a*) shall set forth the estimated revenues and expenditures of the board including debt charges payable by the divisional board or on its behalf by the council of a municipality or a county;

(*b*) shall make due allowance for a surplus of any previous year that will be available during the current year;

(*c*) shall provide for any deficit of any previous year;

(*d*) may provide for expenditures for permanent improvements and for an allocation to a reserve fund, provided that the total of expenditures for permanent improvements referred to in subparagraphs i, ii, iii and vii of paragraph 33 of subsection 1 of section 1 and any sum allocated to a reserve fund,

(i) for secondary school purposes, shall not exceed an amount calculated at one mill in the dollar upon the total of the equalized assessments of the municipalities and localities in the school division, and

(ii) for public school purposes, shall not exceed an amount calculated at one mill in the dollar upon the total of the equalized assessments of the property rateable for public school purposes in the municipalities and localities in the school division; and

(*e*) may provide for a reserve for working funds of a sum not in excess of 5 per cent of the expenditures of the board for the preceding year, but, where the sum accumulated in the reserve is equal to or more than 20 per cent of such expenditures, no further sum shall be provided,

and shall submit to the council of each municipality all or part of which is in the school division on or before the 1st

day of March in each year a statement indicating the amount of the estimates for public school purposes and for secondary school purposes to be raised by each council and a requisition of the amount of the estimates for public school purposes and for secondary school purposes required to be raised by the council in respect of the municipality or part thereof. R.S.O. 1970, c. 424, ss. 75 (2), 76, 77; R.S.O. 1970, c. 425, s. 31 (1); 1972, c. 75, s. 7 (1).

Interpretation

(2) In subsection 1, "equalized assessment" for a municipality or a locality means the assessment upon which taxes are levied in the municipality or locality, as the case may be, in the year for which the estimates are adopted as adjusted by the latest assessment equalization factor applicable thereto that is provided by the Minister. 1972, c. 75, s. 7 (2).

Cost to be included in estimates

(3) The cost of operation of schools for trainable retarded children shall be included in the estimates of the divisional board for secondary school purposes under subsection 1. R.S.O. 1970, c. 425, s. 76, *amended*.

Reserve fund limitation exception

(4) The limitation on the sum that a board may allocate to a reserve fund under clause *d* of subsection 1 does not apply to revenue received by a board in any year from the sale or disposal of, or insurance proceeds in respect of, permanent improvements.

Idem

(5) The limitation on the sum that a board may include in its estimates for permanent improvements under clause *d* of subsection 1 does not apply to revenue received by a board in any year from the sale or disposal of, or insurance proceeds in respect of, permanent improvements or to an expenditure from a reserve fund for the purpose for which such fund was established or to the portion of an expenditure for a permanent improvement receivable by way of a grant under section 9 of *The Community Centres Act* or receivable from a municipality pursuant to an agreement under section 157.

R.S.O. 1970, c. 73

Expenditure of reserve fund moneys

(6) The moneys raised for, or held in, a reserve fund by a board shall not be expended, pledged or applied to any purpose other than that for which the fund was established without the approval of the Minister and subsection 4 of section 308 of *The Municipal Act* does not apply to such moneys. 1972, c. 136, s. 3.

R.S.O. 1970, c. 284

Where estimates submitted after March 1st

(7) Where, in any year, a divisional board is unable to submit the statement and requisition required under subsection 1 to the council of each municipality in the school division on or before the 1st day of March, the later submission thereof does not relieve the council of its duty under subsection 1 of section 208 to levy and collect the amount required by the divisional board.

(8) Where, in any year, the council of a municipality is required, by reason of receiving the requisition of a divisional board under subsection 1 after the 1st day of March, to levy the amount required by the divisional board by a separate levy from the amount levied for municipal purposes, the divisional board, on the request of the treasurer of the municipality, shall pay to the treasurer the cost of levying the amount required by the divisional board. Where cost of separate levy payable by divisional board

(9) Subsection 5 of section 307 of *The Municipal Act* does not apply to divisional boards. R.S.O. 1970, c. 425, s. 31 (2-4). Requirement re estimates R.S.O. 1970, c. 284

(10) Except where inconsistent with the provisions of *The Municipality of Metropolitan Toronto Act*, this section applies, *mutatis mutandis*, to a board of education for an area municipality under such Act. *New*. Application to board of education R.S.O. 1970, c. 295

(11) The provisions of this section that apply in respect of the public school purposes of a divisional board apply to a public school board. 1973, c. 37, s. 7, *amended*. Application to public school board

(12) The provisions of this section that apply in respect of the secondary school purposes of a divisional board apply to a secondary school board. 1972, c. 136, s. 1. Interpretation

206.—(1) In this section, "equalized assessment" for a municipality or a locality means the assessment upon which taxes are levied in the municipality or locality, as the case may be, in the year for which the apportionment is made as adjusted by the latest assessment equalization factor applicable thereto that is provided by the Minister. 1972, c. 75, s. 8 (1). Application to secondary school board

(2) Where, in any year, territory without municipal organization is included in a school division and property therein is assessed for the first time for the purpose of levying rates and collecting taxes for school purposes, such assessment shall, for the purposes of apportionment of costs for that year under this section, be the assessment on which taxes are levied in that year and a request for arbitration under subsection 10 may be made within thirty days after receiving the apportionment from the divisional board. R.S.O. 1970, c. 425, s. 32 (2). Apportionment where unorganized territory becomes part of school division

(3) The sum required by a divisional board for secondary school purposes shall be apportioned among the municipalities and localities in the school division in the proportion that the equalized assessment of the property rateable for secondary school purposes in each such municipality or locality bears to the equalized assessment of all the property Apportionment, secondary school purposes

rateable for secondary school purposes in the school division. R.S.O. 1970, c. 425, s. 32 (3); 1972, c. 75, s. 8 (2).

Apportionment, public school purposes

(4) The sum required by a divisional board for public school purposes shall be apportioned among the municipalities and localities in the school division in the proportion that the equalized assessment of the property rateable for public school purposes in each such municipality or locality bears to the equalized assessment of all the property rateable for public school purposes in the school division. R.S.O. 1970, c. 425, s. 32 (4); 1972, c. 75, s. 8 (3).

Request for arbitration

(5) Where, in respect of any year, the council of a municipality is of the opinion that the apportionment made under subsection 3 or 4 imposes an undue burden on the ratepayers of the municipality or of part thereof, the council may apply to the divisional board, within thirty days after receiving the apportionment from the divisional board, for an arbitration to determine the proportion of the sums required for public school purposes and for secondary school purposes that each municipality or part thereof shall bear in such year. R.S.O. 1970, c. 425, s. 32 (5).

Arbitrators

(6) Upon receipt of the application, the divisional board shall direct its chief executive officer to call a meeting of the treasurer of the county or the regional municipality or, in the case of The Muskoka Board of Education, the treasurer of The District Municipality of Muskoka and the treasurers of the municipalities within the school division, and these treasurers shall be arbitrators to determine the proportion of the amounts to be raised by each municipality. R.S.O. 1970, c. 425, s. 32 (7); 1972, c. 75, s. 8 (4).

Notification of decision

(7) The arbitrators shall make their decision in writing and file a copy thereof with the chief executive officer of the divisional board who shall forthwith send a copy of the decision to the clerk of each municipality by registered mail.

Reference to O.M.B.

(8) If, within thirty days of the mailing of copies of the decision by the chief executive officer, the council of one of the municipalities files with the chief executive officer a written objection to the decision of the arbitrators, the divisional board shall refer the matter to the Ontario Municipal Board whose decision is final.

Effect of decision

(9) The decision of the arbitrators, or, if the matter is referred to the Ontario Municipal Board, the decision of the Ontario Municipal Board, is effective for the year in respect of which the decision is made.

(10) In territory without municipal organization that is deemed to be a district municipality in a school division, five ratepayers resident in such district municipality have the same powers as the council of a municipality under subsections 5 and 8 and may appoint one ratepayer to act as treasurer for the purposes of this section and, where any disagreement arises in respect of such appointed treasurer, the chief executive officer of the divisional board shall designate the person so to act. R.S.O. 1970, c. 425, s. 32 (8-11). Territory without municipal organization

(11) Where in respect of any year a municipality in a school division has, under section 208, levied the amounts that were requisitioned by the divisional board and such amounts are altered by a decision of the arbitrators or by a decision of the Ontario Municipal Board, an overpayment or an underpayment in respect of the municipality or part, resulting from such alteration, shall be adjusted in the levy for the year following the year in which a final decision is received by the board except that, where such decision is received by the board in January, the adjustment shall be made in the levy for the year in which the decision is received. R.S.O. 1970, c. 425, s. 32 (12); 1973, c. 91, s. 2. Adjustment as result of arbitration

207.—(1) The Lieutenant Governor in Council may make regulations providing for the apportionment of the sums required by a divisional board for secondary school purposes and for public school purposes for any year among the municipalities or parts thereof and localities in the school division. R.S.O. 1970, c. 425, s. 33 (2); 1972, c. 75, s. 9 (2). Regulations for apportionment in year 1970 and any subsequent year

(2) Notwithstanding subsections 3 and 4 of section 206, the sums required by a divisional board for secondary school purposes and for public school purposes for any year to which a regulation made under this section is applicable shall be apportioned among the municipalities or parts thereof and localities in the school division in accordance with such regulation. R.S.O. 1970, c. 425, s. 33 (3); 1972, c. 75, s. 9 (3). Apportionment

(3) Where, in making the apportionment in accordance with a regulation made under this section, estimated data are used, an overpayment or an underpayment by a municipality or part thereof or a locality, determined on the basis of actual data, shall be adjusted in the levy for the following year. R.S.O. 1970, c. 425, s. 33 (4); 1972, c. 75, s. 9 (4). Where estimated data used

(4) Where the regulations provide for a grant to a divisional board on behalf of a part of a territorial district that in the year 1968 was not included in a secondary school district, such grant shall be applied to reduce the sum required to be raised under this section in such part of the territorial district. Application of grants

Request for arbitration

(5) Where the council of a municipality is of the opinion that the apportionment made under this section imposes an undue burden on the ratepayers of the municipality or part thereof, the council may apply to the divisional board, within thirty days after receiving such apportionment from the divisional board, for an arbitration to determine the proportion of the sums required for public school purposes and for secondary school purposes that each municipality shall raise in respect of the year for which the request for an arbitration is made, and the provisions of subsections 5 to 11 of section 206 apply *mutatis mutandis*. R.S.O. 1970, c. 425, s. 33 (5, 6).

Rates

208.—(1) The council of each municipality in a school division in each year shall levy and collect,

(*a*) upon all the property rateable for public school purposes in the municipality the amount that it is required by the divisional board to raise for public school purposes; and

(*b*) upon all the property rateable for secondary school purposes in the municipality the amount that it is required by the divisional board to raise for secondary school purposes.

Payment to boards

(2) Subject to subsection 3, the council of each municipality in a school division in each year shall pay to the divisional board the amounts required to be raised by the municipality for public school purposes and for secondary school purposes, in the following instalments:

1. 25 per cent of such amounts on the 31st day of March;

2. 25 per cent of such amounts on the 30th day of June;

3. 25 per cent of such amounts on the 30th day of September; and

4. 25 per cent of such amounts on the 15th day of December,

and in case of non-payment of such instalments or any portion thereof on such dates, the municipality so in default shall pay to the board interest thereon from the day of default to the date that the payment is made at the minimum lending rate of the majority of chartered banks on the day of default and where, with the consent of the board, such instalments or any portion thereof are paid in advance of such dates, the board shall allow to the municipality a discount thereon

from the date of payment to the date upon which the payment is due at the minimum lending rate of the majority of chartered banks on the date of payment.

Agreement

(3) A divisional board may, by agreement with a majority of the municipalities in the school division where such municipalities represent at least two-thirds of the equalized assessment in the school division as determined under subsection 1 of section 206, provide for any number of instalments and the amounts and due dates thereof other than those provided in subsection 2, which shall be applicable to all municipalities in the school division and otherwise subsection 2 applies *mutatis mutandis*.

Termination of agreement

(4) Where an agreement under subsection 3 does not provide for its termination, it shall continue in force from year to year until it is terminated on the 31st day of December in any year by notice given before the 31st day of October in such year,

(*a*) by the chief executive officer of the divisional board as authorized by a resolution of the divisional board; or

(*b*) by the clerks of the majority of the municipalities which represent at least two-thirds of the equalized assessment in the school division as determined under subsection 1 of section 206,

and where no agreement is in effect under subsection 3, the payments shall be made as provided in subsection 2.

Where instalment due before requisition received

(5) Where, in any year, for any reason, the amounts required to be raised under subsection 1 have not been requisitioned before the date upon which an instalment is due, the amount of the instalment shall be based upon the requisition of the previous year and paid on the due date, and in the case of late payment or prepayment of all or part of such instalment the interest or discount under subsection 2 shall apply thereto, and the necessary adjustment shall be made in the instalment due next following the date upon which the requisition of the divisional board is received. R.S.O. 1970, c. 425, s. 34 (1-5).

Application to separate schools

(6) Where a combined separate school board has requested the municipalities that are in whole or in part within the combined separate school zone to levy and collect the rates or taxes imposed by the board, the provisions of subsections 1 to 5 apply *mutatis mutandis* to such board and such municipalities except that reference to equalized assessment in the school division shall be deemed to refer to equalized

assessment rateable for separate school purposes in the combined zone. R.S.O. 1970, c. 430, s. 87 (2-5), *amended*.

Application to public school board

(7) The provisions of this section that apply in respect of the public school purposes of a divisional board apply in respect of a public school board. 1971, c. 69, s. 6, *amended*.

Tax notices

R.S.O. 1970, c. 284

209.—(1) Where taxes are collected by a municipal council for the purposes of a board, the notice of taxes given by the collector under section 521 of *The Municipal Act* shall be given separately in relation to taxes imposed for public, secondary or separate school purposes or in such manner as will clearly indicate the taxes imposed for such school purposes. R.S.O. 1970, c. 425, s. 34 (6).

Municipality to account for moneys

(2) The council of a municipality shall annually account for all moneys collected for school purposes, and any sum collected in excess of the amount required by a board to be raised by the municipality for such purposes shall, except where otherwise provided in the Act under which the sum is collected, be retained by the municipality and applied to reduce the amount that the municipality is required by such board to raise for such purposes in the year next following. 1971, c. 68, s. 2.

Correction of errors in collection of rates in previous years

(3) The council of a municipality shall correct any errors or omissions that may have been made within the three years next preceding such correction in the collection of any school rate duly imposed or intended so to be, to the end that no property shall escape from, or be compelled to pay more than, its proper proportion of the rate. R.S.O. 1970, c. 385, s. 48.

Current borrowing

210.—(1) Notwithstanding the provisions of any general or special Act, a board may by resolution authorize the treasurer and the chairman or vice-chairman to borrow from time to time by way of a promissory note, such sums as the board considers necessary to meet the current expenditures of the board until the current revenue has been received, provided that the interest and any other charges connected therewith do not exceed the interest that would be payable at the minimum lending rate of the majority of chartered banks on the date of borrowing. 1973, c. 92, s. 17.

Debt charges

(2) A board may also borrow, in the manner provided in subsection 1, such sums as the board considers necessary to meet debt charges payable in any year until the current revenue has been received.

(3) The amounts that may be borrowed at any one time for the purposes mentioned in subsections 1 and 2, together with the total of any similar borrowings that have not been repaid, shall not exceed the unreceived or uncollected balance of the estimated revenues of the board, as set forth in the estimates adopted for the year. Limitation

(4) Until such estimates are adopted, the limitations upon borrowing prescribed in this section shall temporarily be calculated upon the estimated revenues of the board, as set forth in the estimates adopted for the next preceding year, less the amount of revenues of the current year already collected. When limitation calculated on estimated revenue

(5) At the time, in any year, that any amount is borrowed under this section, the treasurer shall furnish to the lender a copy of the resolution authorizing the borrowing, unless he has previously done so, and as frequently as required by the lender, a statement showing the amount of the estimated revenues of the current year not yet collected or, where the estimates for the current year have not been adopted, a statement showing the amount of the estimated revenues of the board as set forth in the estimates adopted for the next preceding year and the amount of revenues of the current year already collected, and also showing the total amounts borrowed under this section in the current year that have not been repaid. Copy of resolution authorizing borrowing

(6) For the purposes of this section, estimated revenues do not include revenues derivable or derived from the sale of assets, borrowings or issues of debentures or from a surplus including arrears of taxes and proceeds from the sale of assets. R.S.O. 1970, c. 424, s. 71 (2-6). Estimated revenues

211. The fees payable by a board for the education of pupils shall be paid, when requested by the treasurer of the board that provides the education, on an estimated basis at least quarterly during the year in which the education is provided, with such adjustment as may be required when the actual financial data and attendance for the year have been finally determined, and the estimate shall be not less than the rate per pupil chargeable for a similar period in the preceding year times 90 per cent of the number of such pupils enrolled at the beginning of the current school year. R.S.O. 1970, c. 424, s. 72 (5). When fees payable by boards

Reduction of requisition or rates

212.—(1) Where, in any year, provision is made by regulation for a grant to a board for the purpose of limiting in such year the amount of the requisition for public or secondary school purposes or the increase in the mill rate for separate school purposes in respect of,

(*a*) a municipality or part thereof; or

(*b*) a part of territory without municipal organization that is deemed to be a district municipality,

under the jurisdiction of the board, the board shall, in such year, notwithstanding the provisions of any other Act, apply the grant to reduce the amount of the requisition that otherwise would be required for public or secondary school purposes or to reduce the mill rate that otherwise would be required to be levied for separate school purposes, as the case may be, in respect of the municipality or part thereof, or the district municipality. R.S.O. 1970, c. 424, s. 73 (1), *amended*.

Adjustment of rates where under- or over-levy

(2) Where a board that has jurisdiction in more than one municipality or in one municipality and territory without municipal organization ascertains that,

(*a*) the sum that the board requisitioned for public or secondary school purposes from, or levied for separate school purposes in, a municipality or a part thereof or part of territory without municipal organization that is deemed to be a district municipality under Part III for public and secondary school purposes or under Part IV for separate school purposes;

differs from

(*b*) the sum that the board ought to have requisitioned for public or secondary school purposes from, or levied for separate school purposes in, such municipality or part thereof or part of territory without municipal organization in such year in accordance with the provisions of this Act after the application of the grant referred to in subsection 1 that is receivable by the board in such year in respect of such municipality or part thereof or part of territory without municipal organization,

the difference shall be added to or subtracted from the sum that is estimated to be required for public or secondary school purposes from, or levied for separate school purposes in, such municipality or part thereof or part of territory

without municipal organization in the year in which, or in the year next following the year in which, the existence of the difference is ascertained.

Levy for difference

(3) Notwithstanding subsection 2, a board may, with the approval of the Minister, add to or subtract from the sum that is estimated to be required from or levied in a municipality or part thereof or part of territory without municipal organization in each of two or three years, commencing in the year in which, or in the year next following the year in which, the difference referred to in subsection 2 is ascertained, a portion of such difference, so as to make up the total thereof. 1971, c. 90, s. 11.

Where difference not dealt with under subs. 2, 3

(4) Where a difference referred to in subsection 2 was not dealt with by a board in accordance with subsection 2 or 3 before the 1st day of January, 1972, such difference shall be dealt with by the board as if it had been first ascertained in the year 1972. 1972, c. 77, s. 33.

Interpretation

213. In sections 214, 215 and 216,

(*a*) "commercial assessment" means,

(i) the assessment of real property that is used as the basis for computing business assessment including the assessment for real property that is rented and occupied or used by the Crown in right of Canada or any province or any board, commission, corporation or other agency thereof, or by any municipal corporation or local board thereof, and

(ii) business assessment, and

(iii) the assessment for mineral lands, railway lands, other than railway lands actually in use for residential and farming purposes, and pipe lines, and the assessment of telephone and telegraph companies,

according to the last revised assessment roll;

(*b*) "residential and farm assessment" means the assessment for real property except the assessment for real property mentioned in subclauses i and iii of clause *a*, according to the last revised assessment roll. R.S.O. 1970, c. 424, s. 74.

Data furnished by the municipality

214. The clerk of a municipality shall in each year furnish to each board having jurisdiction in the municipality, or any parts thereof, information respecting the total of the commercial assessments and of the residential and farm assessments on which rates for the support of the board will be

levied in that year and the amount due and payable in the current year for debt charges on debentures issued by the municipality in respect of the board. R.S.O. 1970, c. 424, s. 75 (1).

Determination of rates

215.—(1) Rates to be levied for each board in each municipality or part thereof or part of territory without municipal organization shall be determined in the following manner:

1. Add 90 per cent of the residential and farm assessment in the municipality or part or part of territory without municipal organization to the commercial assessment thereof.

2. Multiply the amount estimated by the board to be raised by levy on the assessment according to the last revised assessment roll for the municipality or part or part of territory without municipal organization by 1,000 and divide the product by the total determined under paragraph 1.

3. The rate to be levied on commercial assessment shall be the rate determined under paragraph 2.

4. The rate to be levied on residential and farm assessment shall be 90 per cent of the rate determined under paragraph 2.

Who to determine rates

(2) Subject to subsection 3, the rates shall be determined by the council of each municipality for each board that has jurisdiction in the municipality.

Idem

(3) A separate school board shall determine the rates to be levied for separate school purposes, and a public or secondary school board shall determine the public or secondary school rates to be levied in respect of territory without municipal organization that is within its area of jurisdiction. R.S.O. 1970, c. 424, s. 78, *amended*.

Assessments for school purposes

R.S.O. 1970, c. 32

216. The clerk of each municipality and each secretary of a board in territory without municipal organization, in addition to the particulars required under subsection 1 of section 17 of *The Assessment Act*, shall prepare the following particulars:

1. the commercial assessment for public school purposes;

2. the residential and farm assessment for public school purposes;

3. the commercial assessment for separate school purposes;

4. the residential and farm assessment for separate school purposes;

5. where two or more school jurisdictions, or parts thereof, are situated in the municipality, the school jurisdiction and the commercial assessment and residential and farm assessment in each such jurisdiction. R.S.O. 1970, c. 424, s. 80.

Levying of school rates

217. The council of every local municipality, every public school board that has jurisdiction only in territory without municipal organization, every divisional board that has jurisdiction in any territory without municipal organization that is deemed a district municipality in a school division, and every separate school board in each year shall levy or cause to be levied on the whole of the assessment for real property and business assessment for public, secondary and separate school purposes, as the case may be, according to the last revised assessment roll, the rates determined for each public, secondary and separate school board having jurisdiction in the municipality, or a part thereof, or in territory without municipal organization, as the case may be. R.S.O. 1970, c. 424, s. 81.

This Part to prevail where conflict

218. In the event of a conflict between any provision in sections 213 to 217 and any provision in any other general or special Act, the provision in sections 213 to 217 prevails. R.S.O. 1970, c. 424, s. 82.

Rates for public library in unorganized territory in school division

219. Where a public library has been established for a school section in territory without municipal organization that is deemed a district municipality within a school division under subsection 3 of section 50, the divisional board of the school division shall be deemed to be a municipal council for such district municipality under section 23 of *The Public Libraries Act*, and the amount of the estimates of the board of the public library appropriated for such board by the divisional board of the school division shall be raised by a levy imposed by the divisional board on all the rateable property in the district municipality. R.S.O. 1970, c. 425, s. 27 (6).

R.S.O. 1970, c. 381

Interpretation

220.—(1) In this section and in section 221,

(*a*) "trailer" means, any vehicle, whether self-propelled or so constructed that it is suitable for being attached to a motor vehicle for the purpose of being drawn or

propelled by the motor vehicle, that is capable of being used for the living, sleeping or eating accommodation of persons, notwithstanding that such vehicle is jacked-up or that its running gear is removed;

(*b*) "trailer camp" or "trailer park" means land in or upon which any trailer is placed, located, kept or maintained, but not including any vehicle unless it is used for the living, sleeping or eating accommodation of persons therein. *New*.

Share of licence fees for trailers to be paid to boards

(2) Except as provided in subsection 3, where a trailer is located in a trailer camp or elsewhere in a municipality and licence fees are collected for the trailer or for the land occupied by the trailer in a trailer camp in any year, the council of the municipality shall pay,

(*a*) to the public school board having jurisdiction in the school section in which the trailer is located a share of the licence fees collected in the same proportion as the rate levied in that part of the municipality for public school purposes bears to the total of the rates levied in that part of the municipality for public and secondary school purposes and municipal purposes; and

(*b*) to the secondary school board having jurisdiction in the secondary school district in which the trailer is located a share of the licence fees collected in the same proportion as the rate levied in that part of the municipality for secondary school purposes bears to the total of the rates levied in that part of the municipality for public and secondary school purposes and municipal purposes.

Idem

(3) Where the occupant of a trailer has given to the clerk of the municipality in which the trailer is located a notice in writing stating that he is a Roman Catholic and desires to be a supporter of a separate school that is situated within three miles of the trailer and within the municipality or a municipality contiguous thereto, the council of the municipality shall pay,

(*a*) to the board of the separate school a share of the licence fees collected with respect to such trailer in the same proportion as the rate levied for separate school purposes in that part of the municipality that is within three miles of the separate school bears to the total of the rates levied in such part of the municipality for separate and secondary school purposes and municipal purposes; and

(*b*) to the secondary school board having jurisdiction in the secondary school district in which the trailer is located a share of the licence fees collected with respect to such trailer in the same proportion as the rate levied for secondary school purposes in such district bears to the total of the rates levied for separate and secondary school purposes and municipal purposes in that part of the district within three miles of the separate school. R.S.O. 1970, c. 424, s. 100 (1, 2), *amended*.

Licence fees not part of annual rates

(4) The share of the licence fees payable to a board by the council of a municipality under this section shall be in addition to any other amount that is payable to the board by the municipality, and shall be paid to the board on or before the 15th day of December in the year for which the licence fees are collected. 1971, c. 90, s. 13.

Application to municipally operated camps

(5) This section does not apply to trailer camps and trailer parks operated by a municipality. R.S.O. 1970, c. 424, s. 100 (3).

Levy on trailer in public school section in unorganized territory

221.—(1) Except as provided in subsection 2, the owner, lessee or person having possession of a trailer that is located in territory without municipal organization in a public school section shall pay to the public school board, on or before the first day of each month, a fee of $5 in respect of such trailer for each month or part thereof, except July and August, that the trailer is so located.

Levy on trailer re separate school in unorganized territory

(2) Where the occupant of a trailer that is located in territory without municipal organization is a Roman Catholic and signifies in writing to the separate school board and if the trailer is located in a public school section to the chief executive officer of the public school board that he is a Roman Catholic and wishes to be a supporter of the separate school that is within three miles of the trailer, the owner or lessee of the trailer shall pay to the separate school board, on or before the first day of each month, a fee of $5 in respect of such trailer for each month or part thereof, except July and August, that the trailer is so located.

Levy on trailer in secondary school district in unorganized territory

(3) The owner, lessee or person having possession of a trailer that is located in territory without municipal organization in a secondary school district shall pay to the secondary school board, on or before the first day of each month, a fee of $5 in respect of such trailer for each month or part thereof, except July and August, that the trailer is so located. R.S.O. 1970, c. 424, s. 101 (1-3), *amended*.

Notice

(4) No person is required to pay a fee under this section until he has been notified in writing by the secretary of

the board concerned or the tax collector that he is liable to pay such fee, and upon receipt of such notice the person shall forthwith pay all fees for which he has been made liable under this section before receipt of the notice and shall thereafter pay fees in accordance with subsections 1 to 3.

Content of notice

(5) Every notice under this section shall make reference to this section and shall specify,

(*a*) the amount of fees for which the person is liable on receipt of the notice;

(*b*) the amount of the monthly fee to be paid thereafter;

(*c*) the date by which payment is required to be made;

(*d*) the place at which payment may be made; and

(*e*) the fine provided under this section. R.S.O. 1970, c. 424, s. 101 (4, 5).

No levy where trailer assessed R.S.O. 1970, c. 32

(6) No fees shall be charged in respect of a trailer assessed under *The Assessment Act*. *New*.

Offence

(7) Every owner or lessee or person having possession of a trailer who permits the trailer to be located in any part of territory without municipal organization in which he is liable for any fee under this section without paying the fee as required under this section is guilty of an offence and on summary conviction is liable to a fine of not less than $10 and not more than $50 and each day that this subsection is contravened shall be deemed to constitute a separate offence. R.S.O. 1970, c. 424, s. 101 (6).

Refund of fees where trailer assessed

(8) Where in the year 1973 or 1974 fees were paid pursuant to this section to a public, separate or secondary school board in relation to a trailer that was assessed under *The Assessment Act* and for which property taxes were due in such year to the public, separate or secondary school board, the board that collected the fees shall refund such fees to the person who paid them. *New*.

School rate where no public school in municipality

222.—(1) Where, in a municipality, a person is entered on the collector's roll as a public school supporter and there is no public school board to which public school rates, if levied in any year on the taxable property of such person in the municipality, may be paid, there shall be levied and collected annually on the taxable property of such person in the municipality a rate equal to 50 per cent of the rate to be levied in that year for general municipal purposes in the municipality. R.S.O. 1970, c. 385, s. 49.

(2) The moneys raised under subsection 1 shall be deposited in a reserve account for public school purposes and may be invested in such securities as a trustee may invest in under *The Trustee Act*, and the earnings from such investments shall form part of the reserve account. Reserve account R.S.O. 1970, c. 470

(3) Subject to subsection 4, where, in a municipality referred to in subsection 1, a public school board is organized and makes provision for the education of its resident pupils, the municipal council shall pay over to the board such moneys as are held by the municipality under this section, and such moneys, Use of moneys in account

(*a*) shall be used for such expenditures for permanent improvements for public school purposes as the board considers expedient; and

(*b*) in any one year, may be used to defray not more than one-third of the amount that would otherwise be required to be requisitioned by the board for public school purposes from such municipality.

(4) Where a municipality referred to in subsection 1 becomes part of a school division, the municipal council shall pay over to the divisional board such moneys as are held by the municipality and such moneys shall be used as provided in clause *b* of subsection 3. 1972, c. 74, s. 12. Application in a school division

223.—(1) Moneys that are held by a municipality as of the 31st day of December, 1972 and were derived from the Ontario Municipalities Fund or from any other source for public school purposes, except the collection of rates, shall be applied by the municipality in the year 1973 to reduce the rate that would otherwise be required to be levied for public school purposes in the municipality. Reserve fund for public school purposes, application in 1973

(2) Where an area municipality, as defined in *The Regional Municipality of Niagara Act*, holds moneys referred to in subsection 1, such moneys shall be applied by the area municipality in the year 1973 to reduce the rate that would otherwise be required to be levied for public school purposes in the part of the area municipality that, on the 31st day of December, 1969, was a municipality that held such moneys, and where there is more than one such part in the area municipality, the moneys shall be applied by the area municipality in respect of each such part in the ratio in which the moneys were held by the former municipalities. Area municipalities in Niagara Region R.S.O. 1970, c. 406

(3) Where, on the 31st day of December, 1972, a municipality holds moneys referred to in subsection 1 and a portion of such municipality is, on the 1st day of January, 1973, detached therefrom, such moneys shall be apportioned by the Where part of municipality detached

clerk of such municipality between the detached portion and the remainder of the municipality in the ratio that the assessment of the property rateable for public school purposes on which taxes were levied in 1972 in the detached portion bears to such assessment in the remainder of the municipality and the amount so apportioned to the portion detached and the remainder of the municipality shall be applied to reduce the rates that would otherwise be required to be levied for public school purposes in 1973 in the detached portion and in the remainder, and the amount of money apportioned to the detached portion shall, before the 31st day of January, 1973, be paid over to the municipality of which the detached portion becomes a part. 1972, c. 74, s. 13.

PART IX

TEACHERS

Contracts

Full-time or part-time teacher

224.—(1) A full-time or part-time teacher who is employed by a board and who is not an occasional teacher shall be employed as a permanent or a probationary teacher. *New.*

Memorandum of contract

(2) A memorandum of every contract of employment between a board and a permanent teacher or a probationary teacher shall be made in writing in the form of contract prescribed by the regulations, signed by the parties, sealed with the seal of the board and executed before the teacher enters upon his duties, but if for any reason such memorandum is not so made, or has not been amended to incorporate any change made in the form of contract so prescribed, every contract shall be deemed to include the terms and conditions contained in the form of contract prescribed for a permanent teacher. R.S.O. 1970, c. 424, s. 16 (1); 1971, c. 90, s. 2 (1).

Salary of teacher

225.—(1) Unless otherwise expressly agreed and subject to subsections 2 to 5, a teacher is entitled to be paid his salary in the proportion that the total number of school days for which he performs his duties in the school year bears to the total number of school days in the school year. 1973, c. 92, s. 7, *amended.*

Payment for absence due to illness or dental condition

(2) Subject to subsection 3, a permanent, probationary or temporary teacher is entitled to his salary for a total of twenty school days in any one school year in respect of his absence from duty on account of his sickness certified to by a physician or on account of acute inflammatory condition of his teeth or gums certified to by a licentiate of dental surgery, but a board may in its discretion pay the teacher his salary for more than twenty days absence from duty on account

of such sickness or such tooth or gum condition. R.S.O. 1970, c. 424, s. 16 (4).

Part-time teacher

(3) A part-time teacher is entitled to his salary for 10 per cent of the periods of instruction and supervision specified in the agreement for his employment in any one school year in respect of his absence from duty on account of his sickness certified to by a physician or on account of acute inflammatory condition of his teeth or gums certified to by a licentiate of dental surgery, but a board may in its discretion pay the part-time teacher his salary for more than 10 per cent of the periods of instruction and supervision in respect of his absence from duty on account of such sickness or such tooth or gum condition.

Absence of teacher in quarantine

(4) Every teacher is entitled to his salary notwithstanding his absence from duty in any case where, because of exposure to a communicable disease, he is quarantined or otherwise prevented by the order of the medical health authorities from attending upon his duties. R.S.O. 1970, c. 424, s. 16 (6, 7).

Absence by reason of being a juror or witness

(5) A teacher is entitled to his salary notwithstanding his absence from duty by reason of a summons to serve as a juror, or a subpoena as a witness in any proceeding to which he is not a party or one of the persons charged, provided that the teacher pays to the board any fee, exclusive of travelling allowances and living expenses, that he receives as a juror or as a witness. 1972, c. 77, s. 9.

Award of salary by way of penalty

(6) If it appears to the judge on the trial of an action for the recovery of a teacher's salary that there was not reasonable ground for the board disputing its liability or that the failure of the board to pay was from an improper motive, he may award as a penalty a sum not exceeding three months salary.

Failure of board to pay salary when no written agreement

(7) For the purposes of subsection 6, the failure of a board to pay a teacher's salary may be extended by a judge to include failure to pay a teacher's salary when an agreement for his employment has been made by the board but no written memorandum has been made and executed as required by section 224, if the judge is satisfied upon the evidence that the refusal of the board to pay the salary by reason of the absence of a memorandum in writing is without merit. R.S.O. 1970, c. 424, s. 16 (10, 11).

Probationary teacher

226. A board shall not offer to a teacher, and no teacher shall accept, a contract as a probationary teacher for a period greater than,

(*a*) two years where the teacher has less than three years' experience; and

(*b*) one year where the teacher has three or more years' experience,

as a teacher in an elementary or secondary school in Ontario before the commencement of the contract. R.S.O. 1970, c. 424, s. 1 (2), par. 22, *amended*.

Teachers to be qualified

227.—(1) Except as otherwise provided in this Act, no person shall be employed or act as a teacher in an elementary or secondary school unless he is qualified as prescribed by the regulations. R.S.O. 1970, c. 424, s. 18 (1).

Certificates

(2) Subject to this Act, a certificate of qualification as a teacher may be awarded only to a person of good moral character and physically fit to perform the duties of a teacher, who passes the examinations prescribed by, and otherwise complies with, the regulations. R.S.O. 1970, c. 424, s. 18 (2); 1972, c. 77, s. 10.

Idem

(3) All certificates of qualification are valid for such periods as the regulations prescribe. R.S.O. 1970, c. 424, s. 18 (3).

Termination of contract where welfare of school involved

228. Notwithstanding the other provisions of this Part and notwithstanding anything in the contract between the board and the teacher, where a permanent or probationary teacher is employed by a board and a matter arises that in the opinion of the Minister adversely affects the welfare of the school in which the teacher is employed,

(*a*) the board or the teacher may, with the consent of the Minister, give the other party thirty days written notice of termination, and the contract is terminated at the expiration of thirty days from the date the notice is given; or

(*b*) the board may, with the consent of the Minister, give the teacher written notice of immediate termination together with one-tenth of the teacher's yearly salary in addition to the amount to which he would otherwise be entitled, and the contract thereupon is terminated. R.S.O. 1970, c. 111, s. 10 (2).

Duties

Duties of teacher,

229.—(1) It is the duty of a teacher,

teach

(*a*) to teach diligently and faithfully the classes or subjects assigned to him by the principal;

learning

(*b*) to encourage the pupils in the pursuit of learning;

religion and morals

(*c*) to inculcate by precept and example respect for religion and the principles of Judaeo-Christian morality

and the highest regard for truth, justice, loyalty, love of country, humanity, benevolence, sobriety, industry, frugality, purity, temperance and all other virtues;

(*d*) to assist in developing co-operation and co-ordination of effort among the members of the staff of the school; co-operation

(*e*) to maintain, under the direction of the principal, proper order and discipline in his classroom and while on duty in the school and on the school ground; discipline

(*f*) in instruction and in all communications with the pupils in regard to discipline and the management of the school, language of instruction

(i) to use the English language, except where it is impractical to do so by reason of the pupil not understanding English, and except in respect of instruction in a language other than English when such other language is being taught as one of the subjects in the course of study, or

(ii) to use the French language in schools or classes in which French is the language of instruction except where it is impractical to do so by reason of the pupil not understanding French, and except in respect of instruction in a language other than French when such other language is being taught as one of the subjects in the course of study;

(*g*) to conduct his class in accordance with a timetable which shall be accessible to pupils and to the principal and supervisory officers; timetable

(*h*) to participate in professional activity days as designated by the board under the regulations; professional activity days

(*i*) to notify such person as is designated by the board if he is to be absent from school and the reason therefor; absence from school

(*j*) to deliver the register, the school key and other school property in his possession to the board on demand, or when his agreement with the board has expired, or when for any reason his employment has ceased; and school property

(*k*) to use and permit to be used as a textbook in a class that he teaches in an elementary or a secondary school, textbooks

(i) in a subject area for which textbooks are approved by the Minister, only textbooks that are approved by the Minister, and

(ii) in all subject areas, only textbooks that are approved by the board. R.S.O. 1970, c. 424, s. 21 (1); 1972, c. 77, s. 13 (1); 1973, c. 92, s. 8 (1, 2), *amended*.

Refusal to give up school property

(2) A teacher who refuses, on demand or order of the board that operates the school concerned, to deliver to the board any school property in his possession forfeits any claim that he may have against the board. 1972, c. 77, s. 12.

Teachers, conferences

(3) Teachers may organize themselves for the purpose of conducting professional development conferences and seminars. R.S.O. 1970, c. 424, s. 22, *amended*.

Duties of principal.

230. It is the duty of a principal of a school, in addition to his duties as a teacher,

discipline

(*a*) to maintain proper order and discipline in the school;

co-operation

(*b*) to develop co-operation and co-ordination of effort among the members of the staff of the school;

register pupils and record attendance

(*c*) to register the pupils and to ensure that the attendance of pupils for every school day is recorded either in the register supplied by the Minister in accordance with the instructions contained therein or in such other manner as is approved by the Minister;

pupil records

(*d*) to establish and maintain, and to retain, transfer and dispose of, in the manner prescribed by the regulations, a record in respect of each pupil enrolled in the school;

timetable

(*e*) to prepare a timetable, to conduct the school according to such timetable and the school year calendar or calendars applicable thereto, to make the calendar or calendars and the timetable accessible to the pupils, teachers and supervisory officers and to assign classes and subjects to the teachers;

examinations and reports

(*f*) to hold, subject to the approval of the appropriate supervisory officer, such examinations as he considers necessary for the promotion of pupils or for any other purpose and report as required by the board the progress of the pupil to his parent or guardian where the pupil is a minor and otherwise to the pupil;

promote pupils

(*g*) subject to revision by the appropriate supervisory officer, to promote such pupils as he considers proper and to issue to each such pupil a statement thereof;

(*h*) to ensure that all textbooks used by pupils are those approved by the board and, in the case of subject areas for which the Minister approves textbooks, those approved by the Minister; textbooks

(*i*) to furnish to the Ministry and to the appropriate supervisory officer any information that it may be in his power to give respecting the condition of the school premises, the discipline of the school, the progress of the pupils and any other matter affecting the interests of the school, and to prepare such reports for the board as are required by the board; reports

(*j*) to give assiduous attention to the health and comfort of the pupils, to the cleanliness, temperature and ventilation of the school, to the care of all teaching materials and other school property, and to the condition and appearance of the school buildings and grounds; care of pupils and property

(*k*) to report promptly to the board and to the municipal health officer or to the school medical officer where one has been appointed, when he has reason to suspect the existence of any infectious or contagious disease in the school, and of the unsanitary condition of any part of the school building or the school grounds; report to M.O.H.

(*l*) to refuse admission to the school of any person who he believes is infected with or exposed to communicable diseases requiring quarantine and placarding under regulations made pursuant to *The Public Health Act* until furnished with a certificate of a medical officer of health or of a legally qualified medical practitioner approved by him that all danger from exposure to contact with such person has passed; persons with communicable diseases R.S.O. 1970, c. 377

(*m*) subject to an appeal to the board, to refuse to admit to the school or classroom a person whose presence in the school or classroom would in his judgment be detrimental to the physical or mental well-being of the pupils; and access to school or class

(*n*) to maintain a visitor's book in the school when so determined by the board. R.S.O. 1970, c. 424, s. 21 (2); 1972, c. 77, s. 13 (2, 3); 1973, c. 92, s. 8 (3), *amended*. visitor's book

Pupil Records

Interpretation

231.—(1) In this section, except in subsection 12, "record" in respect of a pupil means a record maintained or retained by the principal of a school in accordance with the regulations.

Pupil records privileged

(2) A record is privileged for the information and use of supervisory officers and the principal and teachers of the school for the improvement of instruction of the pupil, and such record,

(*a*) subject to subsections 3 and 5, is not available to any other person; and

(*b*) except for the purposes of subsection 5, is not admissible in evidence for any purpose in any trial, inquest, inquiry, examination, hearing or other proceeding, except to prove the establishment, maintenance, retention or transfer of the record,

without the written permission of the parent or guardian of the pupil or, where the pupil is an adult, the written permission of the pupil.

Right of parent and pupil

(3) A pupil, and his parent or guardian where the pupil is a minor, is entitled to examine the record of such pupil.

Idem

(4) Where, in the opinion of a pupil who is an adult, or of the parent or guardian of a pupil who is a minor, information recorded upon the record of the pupil is,

(*a*) inaccurately recorded; or

(*b*) not conducive to the improvement of instruction of the pupil,

such pupil, parent or guardian, as the case may be, may, in writing, request the principal to correct the alleged inaccuracy in, or to remove the impugned information from, such record. 1972, c. 77, s. 14, *part*.

Reference where disagreement

(5) Where the principal refuses to comply with a request under subsection 4, the pupil, parent or guardian who made the request may, in writing, require the principal to refer the

request to the appropriate supervisory officer who shall either require the principal to comply with the request or submit the record and the request to a person designated by the Minister, and such person shall hold a hearing at which the principal and the person who made the request are the parties to the proceedings, and the person so designated shall, after the hearing, decide the matter, and his decision is final and binding upon the parties to the proceedings. 1973, c. 92, s. 9.

Use re further education or employment

(6) Nothing in subsection 2 prohibits the use by the principal of the record in respect of a pupil to assist in the preparation of,

(*a*) a report required by this Act or the regulations; or

(*b*) a report,

(i) for an educational institution or for the pupil or former pupil, in respect of an application for further education, or

(ii) for the pupil or former pupil in respect of an application for employment,

where a written request is made by the former pupil, the pupil where he is an adult, or the parent or guardian of the pupil where the pupil is a minor.

Information for Minister or board

(7) Nothing in this section prevents the compilation and delivery of such information as may be required by the Minister or by the board.

No action re content

(8) No action shall be brought against any person in respect of the content of a record.

Testimony re content

(9) Except where the record has been introduced in evidence as provided in this section, no person shall be required in any trial or other proceeding to give evidence in respect of the content of a record.

Secrecy re contents

(10) Except as permitted under this section, every person shall preserve secrecy in respect of the content of a record that comes to his knowledge in the course of his duties or employment, and no such person shall communicate any such knowledge to any other person except,

(*a*) as may be required in the performance of his duties; or

(*b*) with the written consent of the parent or guardian of the pupil where the pupil is a minor; or

(*c*) with the written consent of the pupil where the pupil is an adult.

Interpretation

(11) For the purposes of this section, "guardian" includes a person, society or corporation who or that has custody of a pupil.

Application to former records

(12) This section, except subsections 3, 4 and 5, applies *mutatis mutandis* to a record established and maintained in respect of a pupil or retained in respect of a former pupil prior to the 1st day of September, 1972. 1972, c. 77, s. 14, *part*.

Use of record in disciplinary cases

(13) Nothing in this section prevents the use of a record in respect of a pupil by the principal of the school attended by the pupil or the board that operates the school for the purposes of a disciplinary proceeding instituted by the principal in respect of conduct for which the pupil is responsible to the principal. *New*.

Boards of Reference

Interpretation

232. In sections 233 to 242,

(*a*) "contract" means a contract of employment between a teacher and a board;

(*b*) "employed" means employed as a permanent teacher by a board;

(*c*) "judge" means a judge of a county or district court;

(*d*) "teacher" means a person qualified to teach in an elementary or secondary school and employed by a board on the terms and conditions contained in the form of contract prescribed for a permanent teacher. R.S.O. 1970, c. 424, s. 23, *amended*.

Termination of contract by board

233.—(1) The dismissal of a teacher, or the termination of the contract of a teacher, by a board shall be by notice in writing, which shall state the reasons therefor, in accordance with the terms of the contract.

Termination of contract by teacher

(2) Where a teacher is employed by a board, the termination of the contract by the teacher shall be by notice in writing in accordance with the terms of the contract.

Application for board

(3) Where a teacher is dismissed or the contract of a teacher is terminated by the board or the teacher, the teacher or board if not in agreement with the dismissal or termination may at any time within twenty-one days after receiving the

notice referred to in subsection 1 or 2, as the case may be, apply in writing by registered letter to the Minister for a Board of Reference, stating the disagreement.

Service of notice

(4) The applicant shall send a copy of the application by registered mail to the other party to the disagreement on the same day as the application is sent to the Minister. R.S.O. 1970, c. 424, s. 24.

Appointment in place of teacher dismissed

234.—(1) A board shall not make a permanent appointment to take the place of a teacher who is dismissed or whose contract has been terminated in a manner not agreeable to the teacher until,

(*a*) the time prescribed for applying for a Board of Reference has elapsed and the teacher has not applied for a Board of Reference and sent a copy of the application to the board, as provided in section 233;

(*b*) the board has received from the teacher notice in writing that no application will be made under section 233;

(*c*) the board has received from the Minister notice in writing that an application made by the teacher under section 233 has been withdrawn;

(*d*) the board has received from the Minister notice in writing that he has refused an application made by the teacher under section 233;

(*e*) the board has received from the Minister notice in writing that the teacher, being the applicant, has failed to comply with the requirements of subsection 3 of section 235; or

(*f*) the board has received from the Minister a copy of the direction of the Board of Reference under section 238 directing the discontinuance of the contract,

whichever first occurs.

New contract after termination of contract by teacher

(2) A teacher who terminates a contract in a manner not agreeable to the board shall not enter into a contract with another board after the teacher has received notice of the application of the board for a Board of Reference until,

(*a*) the teacher has received from the Minister notice in writing that an application made by the board under section 233 has been withdrawn;

(*b*) the teacher has received from the Minister notice in writing that he has refused an application made by the board under section 233;

(*c*) the teacher has received from the Minister notice in writing that the board, being the applicant, has failed to comply with the requirements of subsection 3 of section 235; or

(*d*) the teacher has received from the Board of Reference a copy of the direction of the Board of Reference under section 238 directing the discontinuance of the contract,

whichever first occurs. R.S.O. 1970, c. 424, s. 25, *amended*.

Application for Board of Reference

235.—(1) Upon receipt of an application for a Board of Reference, the Minister shall cause notice of the application to be sent by registered mail to the other party to the disagreement and shall within thirty days of sending the notice inquire into the disagreement and shall, within the same time,

(*a*) refuse to grant the Board of Reference; or

(*b*) grant the Board of Reference and appoint a judge to act as chairman thereof. R.S.O. 1970, c. 424, s. 26 (1).

Appointment

(2) Where, under subsection 1, a judge is appointed after the expiry of thirty days referred to therein to act as chairman of a Board of Reference, the failure to make the appointment within the thirty-day period does not invalidate the Board of Reference or the appointment of the judge as chairman thereof, provided the Board of Reference is granted in accordance with subsection 1. 1971, c. 90, s. 4.

Naming of representatives

(3) Upon appointing a judge to act as chairman of a Board of Reference, the Minister shall cause notice thereof to be sent by registered mail to the board and teacher involved in the disagreement and the notice shall require each of them to name to the Board of Reference a representative who is not the teacher involved or a member of the board and to send or cause to be sent by hand or by registered mail to the Minister a notice of such nomination within twelve days of the sending of the notice by the Minister.

Failure to name representatives

(4) If the applicant fails to comply with the requirements of subsection 3, the application shall be deemed to be abandoned and the Minister shall cause notice thereof to be sent by registered mail to the other party to the disagreement.

(5) If the respondent fails to comply with the requirements of subsection 3, the Minister shall direct the continuance of the contract. Idem

(6) If the representative of the board or the teacher, having been named, fails to appear at the hearing, the chairman of the Board of Reference shall name a representative for the board or teacher, as the case may be. R.S.O. 1970, c. 424, s. 26 (3-6). Failure of representatives to appear

(7) Where the Minister grants a Board of Reference, the applicant shall be deemed to have met the conditions precedent to the granting of a Board of Reference. *New*. Applicant deemed eligible

(8) Where, after the hearing has commenced, the representative of the board or of the teacher dies, for any reason is unable to continue to act or withdraws from the Board of Reference, the other representative shall withdraw and the decision of the Board of Reference shall be made by the chairman. 1972, c. 160, s. 1. Death or withdrawal of representative

(9) Where, before the hearing has commenced, the chairman of a Board of Reference dies, disqualifies himself, for any reason is unable to act or is prohibited from acting, the Minister shall appoint another judge to act as chairman and the Board of Reference shall proceed in accordance with this Part except that for the purposes of section 236 the date of appointment of the chairman is the date of appointment of the chairman appointed to act under this section. Death, etc., of chairman before hearing

(10) Where, after the hearing has commenced and before the chairman of a Board of Reference reports to the Minister and to the parties, New Board of Reference after hearing commences

(*a*) the chairman dies, disqualifies himself, for any reason is unable to continue as chairman, or is prohibited from acting; or

(*b*) the Board of Reference is prohibited from acting or proceeding,

the Board of Reference is terminated and, where, within ninety days after the death, disqualification, inability to continue or prohibition referred to in clause *a* or *b*, the person who applied for the Board of Reference requests the Minister in writing to grant another Board of Reference, the Minister may grant a new Board of Reference, in which case the provisions of this Part apply *mutatis mutandis* except that the representatives named to the new Board of Reference shall not be the representatives named to the Board of Reference

terminated under this subsection and the determination and direction of the costs under section 241 may include the costs, if any, incurred in respect of the Board of Reference terminated under this subsection.

Procedure at new Board of Reference

(11) Where a new Board of Reference is granted under subsection 10, the hearing shall proceed as if the hearing by the Board of Reference terminated under subsection 10 had not commenced. 1972, c. 160, s. 2.

Place and time of hearing

236. The chairman of the Board of Reference shall, within thirty days of his appointment, and upon reasonable notice thereof to the parties, convene the Board of Reference in any appropriate and convenient court house or municipal or school building and at such time as he may appoint. R.S.O. 1970, c. 424, s. 27.

Duty to inquire and powers of judge
1971, c. 49

237. The Board of Reference shall inquire into the matter in dispute and for such purposes the chairman has the powers of a commission under Part II of *The Public Inquiries Act, 1971*, which Part applies to such inquiry as if it were an inquiry under that Act. R.S.O. 1970, c. 424, s. 28 (1), *amended*.

Direction of Board of Reference to report

238.—(1) A Board of Reference shall direct the continuance of the contract or the discontinuance of the contract. 1972, c. 160, s. 4, *part*.

Chairman of Board of Reference to report

(2) The chairman of a Board of Reference shall, within seven days after,

(*a*) the application for the Board of Reference is withdrawn; or

(*b*) the matter in dispute has been settled by the parties to the Board of Reference; or

(*c*) the completion of the hearing and the receipt of any written submissions required by him,

report to the Minister and the parties the disposition of the application. 1972, c. 160, s. 4, *part*, *amended*.

New Board of Reference provided
1971, c. 48

239. Where, pursuant to an application for judicial review under *The Judicial Review Procedure Act, 1971*, the report or the direction of a Board of Reference is set aside, the Minister may grant a new Board of Reference if the board or teacher applies therefor to the Minister by registered mail within fifteen days after the date of the

order of the court setting aside the report or direction, and the provisions of sections 232 to 242 apply *mutatis mutandis* in respect of the new Board of Reference. 1972, c. 77, s. 15, *amended*.

240.—(1) The direction of the Board of Reference under section 238 is binding upon the board and the teacher. R.S.O. 1970, c. 424, s. 30 (1). Direction of Board

(2) If a board fails to comply with the direction of the Board of Reference under section 238, the Minister may direct that any portion of the amounts then or thereafter payable to the board under the authority of any Act of the Legislature shall not be paid to the board until it has complied with the direction. R.S.O. 1970, c. 424, s. 30 (2); 1972, c. 77, s. 16. Failure to comply with direction of Board

(3) If a teacher fails to comply with the direction of the Board of Reference under section 238, the Minister may suspend the certificate of qualification of the teacher for such period as he considers advisable. R.S.O. 1970, c. 424, s. 30 (3). Idem

241. Subject to the regulations made under section 242 the chairman of the Board of Reference shall determine and direct the costs to be paid by either or both parties in the disagreement, and every such order may be enforced in the same manner as an order as to costs made in an action in a county or district court. R.S.O. 1970, c. 424, s. 31. Payment of costs

242. The Lieutenant Governor in Council may make regulations, Regulations

(*a*) fixing the remuneration of members of Boards of Reference and defining, prescribing and limiting other items of expense, including travelling and living expenses, which shall be included in the costs of a Board of Reference;

(*b*) regulating the practice and procedure to be followed upon any reference; and

(*c*) respecting any matter necessary or advisable to carry out effectively the intent and purpose of sections 233 to 241. R.S.O. 1970, c. 424, s. 32.

PART X

SUPERVISORY OFFICERS

243. Every supervisory officer appointed under this Part shall hold the qualifications required by the regulations for a supervisory officer. R.S.O. 1970, c. 424, s. 67, *part*. Qualifications of supervisory officers

244. A board of education that had an enrolment in its public and secondary schools of 2,000 or more on the 30th Director of education

day of September of any year and does not have a director of education shall, on or before the 1st day of August of the year following, appoint a director of education, and he shall hold the qualifications required by the regulations for a supervisory officer who is responsible to the board for the development, implementation, operation and supervision of educational programs in the schools. R.S.O. 1970, c. 425, s. 44 (2); 1972, c. 75, s. 15 (2), *amended*.

Idem

245. A separate school board that had an enrolment in its schools of 2,000 or more on the 30th day of September of any year and does not have a director of education shall, on or before the 1st day of August of the year following, appoint a director of education, and he shall hold the qualifications required by the regulations for a supervisory officer who is responsible to the board for the development, implementation, operation and supervision of educational programs in the schools. R.S.O. 1970, c. 430, s. 93 (2); 1972, c. 76, s. 32 (2), *amended*.

Supervisory officers

246. A board of education having an enrolment in its public and secondary schools of fewer than 2,000 and a county or district combined separate school board having an enrolment in its schools of fewer than 2,000 may appoint such supervisory officers as are approved by the Minister. R.S.O. 1970, c. 425, s. 44 (3); R.S.O. 1970, c. 430, s. 93 (3).

Chief executive officer

247.—(1) A director of education is the chief education officer and the chief executive officer of the board by which he is employed and is a supervisory officer who qualified as such as a teacher. R.S.O. 1970, c. 424, s. 68 (3), *amended*.

Idem

(2) The chief executive officer of a board shall, within policies established by the board, develop and maintain an effective organization and the programs required to implement such policies. *New*.

Supervisory officers

248. Every board that is required to appoint a director of education shall, subject to the regulations, employ such other supervisory officers as it considers necessary to supervise adequately all aspects of the programs under its jurisdiction. R.S.O. 1970, c. 424, s. 67, *amended*.

Appointment of supervisory officers

249.—(1) Where a board appoints one or more supervisory officers, the board,

(*a*) shall, subject to the regulations, designate the title and area of responsibility of each such officer;

(*b*) shall appoint an English-speaking supervisory officer for schools and classes where English is the language

of instruction, and a French-speaking supervisory officer for schools and classes where French is the language of instruction, or shall arrange with another board or with the Minister for the services of an English-speaking supervisory officer or a French-speaking supervisory officer where such officer is not appointed by the board; and

(*c*) may assign to a supervisory officer such administrative duties, in addition to those prescribed in section 250 and the regulations, as the board considers expedient.

Confirmation by Minister

(2) No person shall be appointed as a supervisory officer by a board until notice in writing of the proposed appointment and the area of responsibility to be assigned has been given to the Minister and the Minister has confirmed that the person to be appointed is eligible for the position. R.S.O. 1970, c. 424, s. 68 (1, 2), *amended*.

Duties of supervisory officers:

250.—(1) Subject to the regulations, a board or the Minister shall assign the following duties to its or his supervisory officer or officers,

assist teachers

(*a*) to bring about improvement in the quality of education by assisting teachers in their practice;

co-operate with boards

(*b*) to assist and co-operate with boards to the end that the schools may best serve the needs of the pupils;

visit schools

(*c*) to visit schools and classrooms as the Minister may direct and, where the supervisory officer has been appointed by a board, as the board may direct;

prepare reports

(*d*) to prepare a report of a visit to a school or classroom when required by the Minister and, where the supervisory officer has been appointed by a board, when required by the board and to give to a teacher referred to in any such report a copy of the portion of the report that refers to the teacher;

Acts and regulations

(*e*) to ensure that the schools under his jurisdiction are conducted in accordance with this Act and the regulations;

annual report to Minister

(*f*) to make a general annual report as to the performance of his duties and the condition of the schools in his area of jurisdiction when required by the Minister and, where the supervisory officer has been appointed by a board, when required by the board;

report to M.O.H.

(*g*) to report to the appropriate medical officer of health any case in which the school buildings or premises are found to be in an unsanitary condition;

report to the Minister

(*h*) to furnish the Minister with information respecting any school in his area of jurisdiction whenever required to do so;

supervise business

(*i*) to supervise the business functions of the board; and

supervise buildings and property

(*j*) to supervise the use and maintenance of the buildings and property of the board. R.S.O. 1970, c. 424, s. 70 (1); 1971, c. 90, s. 8, *amended*.

Responsibility to Minister

(2) Every supervisory officer appointed by the Minister is responsible to the Minister for the performance of his duties.

Responsibility to board

(3) Every supervisory officer appointed by a board is responsible to the board through the chief executive officer for the performance of the duties assigned to him by the board. R.S.O. 1970, c. 424, s. 70 (2, 3), *amended*.

Full-time position

(4) Except as otherwise provided by this Act or the regulations, a supervisory officer shall not, without the approval of the Minister, hold any other office, have any other employment or follow any other profession or calling, during his tenure as a supervisory officer. R.S.O. 1970, c. 424, s. 69 (6), *amended*.

Suspension or dismissal of supervisory officer by board

251.—(1) A supervisory officer appointed by a board may be suspended or dismissed by the board, in accordance with the regulations, for neglect of duty, misconduct, inefficiency.

Notice re suspension or dismissal

(2) Where a board suspends or dismisses a supervisory officer, the board shall forthwith notify in writing the supervisory officer and the Minister of the suspension or dismissal and the reasons therefor. R.S.O. 1970, c. 424, s. 69 (2), *amended*.

PART XI

FRENCH LANGUAGE INSTRUCTION

Elementary

French-language elementary schools and classes

252.—(1) A board of education, public school board or separate school board may establish and maintain elementary schools or classes in elementary schools, including kindergarten and junior kindergarten classes, for the purpose of providing for the use of the French language in instruction.

French-language classes

(2) Where, after the first school day in September and on or before the 1st day of April next following, written evidence is presented to a board referred to in subsection 1 that a

number of French-speaking pupils resident in the school section or separate school zone have elected to be taught in the French language, the board shall forthwith determine whether French-speaking pupils can be assembled for this purpose in one or more classes or groups of twenty-five or more and, where the board determines that such pupils can be so assembled, it shall provide for the use of the French language in instruction in such classes or groups commencing on the first school day of the following school year.

Idem

(3) Where the evidence referred to in subsection 2 is presented to the board after the 1st day of April and before the first school day in September next following, the board shall make the determination required under subsection 2 and, where the board determines that French-speaking pupils can be assembled in classes or groups of twenty-five or more for the use of the French language in instruction, the board may, commencing on the first school day in January of the following year, and shall, commencing on the first school day in September of such following year, provide for the use of the French language in instruction in such classes or groups.

French-language schools

(4) Where a board referred to in subsection 1 provides or is required to provide for the use of the French language in instruction and in the opinion of the board the number of pupils who elect to be taught in the French language so warrants, the board shall provide a French-language elementary school.

English as subject of instruction

(5) Notwithstanding subsections 1, 2, 3 and 4, English may be a subject of instruction in any grade and shall be a subject of instruction in Grade 5 and all subsequent grades in an elementary school.

Admission of pupils other than French-speaking pupils

(6) A board, on the request of the parent or guardian of an English-speaking pupil of the board, or of the pupil where he is an adult, may admit the pupil to a class formed under subsection 1, 2 or 3 or to a school provided under subsection 4 if his admission is approved by majority vote of an admissions committee appointed by the board, and composed of the principal of the school to which admission is requested, a teacher who uses the French language in instruction in such school and, subject to subsection 7, a French-speaking supervisory officer employed by the board.

Where board has no French-speaking supervisory officer

(7) Where a board does not employ a French-speaking supervisory officer, it shall arrange for a French-speaking supervisory officer employed by another board or by the Minister to serve as a member of the admissions committee.

English-language schools or classes

(8) Where a board has provided one or more French-language elementary schools under subsection 4 and a number of pupils of the board elect to be taught in the English language, subsections 1, 2 and 3 apply *mutatis mutandis* in respect of provision for the use of the English language in instruction. 1973, c. 92, s. 12, *part, amended.*

Duties and responsibilities of advisory committee in public schools

253. Where a board of education has established a French-language advisory committee under section 256, or an English-language advisory committee under section 266, the committee has the same duties and responsibilities in respect of the French-language schools and classes or English-language schools and classes, as the case may be, that are provided in the public schools operated by the board of education as it has in respect of French-language instructional units or English-language schools and classes, as the case may be, for secondary school purposes. 1973, c. 92, s. 12, *part.*

Secondary

Interpretation

254. In sections 255 to 271,

(*a*) "board" means a board of education;

(*b*) "committee" means a French-language advisory committee formed under section 256;

(*c*) "French-language instructional unit" means a class, group of classes, or school in which French is the language of instruction;

(*d*) "ratepayer" in respect of a board means a person entitled to vote at an election of members of the board. 1973, c. 91, s. 5, *part.*

French-language schools or classes

255.—(1) A board may establish and maintain secondary schools or classes in secondary schools for the purpose of providing for the use of the French language in instruction, or may enter into an agreement with another board to provide for the admission of resident pupils of the first-mentioned board to one or more French-language instructional units operated by such other board.

French-language schools

(2) Where, after the first school day in September and on or before the 1st day of April next following, written evidence is presented to a board that a number of French-speaking pupils resident in the secondary school district have elected to be taught in the French language, the board shall forthwith determine whether French-speaking pupils can be assembled for this purpose in one or more classes or groups of twenty

or more and, where the board determines that such pupils can be so assembled, it shall provide for the use of the French language in instruction in such classes or groups commencing on the first school day in the following school year.

Idem

(3) Where the evidence referred to in subsection 2 is presented to the board after the 1st day of April and before the first school day in September next following, the board shall make the determination required under subsection 2 and, where the board determines that French-speaking pupils can be assembled in classes or groups of twenty or more for the use of the French language in instruction, the board may, commencing on the first school day in January of the following year, and shall, commencing on the first school day in September of such following year, provide for the use of the French language in instruction in such classes or groups.

French-language secondary schools

(4) Where a board provides or is required to provide for the use of the French language in instruction in one or more classes in a secondary school and in the opinion of the board the number of French-speaking pupils who elect to be taught in the French language so warrants, the board shall provide an appropriate unit of a secondary school or, where practicable, a French-language secondary school.

Agreement with another board

(5) Where a board determines that the number of French-speaking pupils who elect to be taught in the French language is not sufficient to justify the establishment of a French-language secondary school, the board shall, in respect of the education of such pupils, consider the possibility of entering into an agreement with another board under section 156 or 160. 1973, c. 91, s. 5, *part*.

Establishment of committee

256.—(1) Where,

(*a*) ten or more French-speaking ratepayers of a secondary school district apply in writing to the board for the establishment or extension in a secondary school of a class, group or program in which the French language is or is to be used in instruction; or

(*b*) a board establishes or extends or decides to establish or extend a class, group or program in which the French language is or is to be used in instruction,

the board shall, within two months of the application, establishment, extension or decision to establish or extend, by resolution, establish a committee and provide for the holding of elections of members thereof, and such elections shall, subject to subsection 7, be held within such period.

Composition

(2) The committee shall consist of nine members and shall be composed of,

(*a*) three members of the board appointed by the board; and

(*b*) six French-speaking ratepayers who are not members of the board but have the qualifications required for members of the board, elected by French-speaking ratepayers of the secondary school district.

Member of elementary board

(3) A member of the committee under clause *b* of subsection 2 may be a member of an elementary school board.

Term of office

(4) A member of a committee shall hold office during the term of the members of the board and until a new board is organized.

Apportionment of members

(5) The board, subject to subsection 8, shall apportion the number of members under clause *b* of subsection 2 among the municipalities and the localities, or among parts or groups of such municipalities or localities, within the jurisdiction of the board as nearly as is practicable in the proportion that the number of French-speaking pupils who elect to be taught in the French language from each such municipality, locality or part or group thereof bears to the total number of such pupils within the area of jurisdiction of the board.

Meetings of French-speaking ratepayers to elect committee members

(6) The board shall make provision for a meeting of its French-speaking ratepayers in respect of each area to which one or more members are apportioned under subsection 5 for the purpose of electing such member or members to the committee, and shall advertise in each of its schools and in the public media serving the local population, the place, date and time of the meeting, and take such additional action to publicize the meeting as it considers expedient.

Idem

(7) Where the election of members of a committee under subsection 1 would otherwise be held within three months before the date of the regular election of members of the board, the election required under subsection 1 shall be held in accordance with section 257.

Consultation with committee re apportionment

(8) For the purpose of the second and subsequent elections of members to a committee, the board shall consult with the committee before making the apportionment referred to in subsection 5 and shall make such apportionment on or before the 1st day of December in the year of a regular election of the board. 1973, c. 91, s. 5, *part, amended*.

257. Where a committee has been established and a new board has been elected, a meeting provided under subsection 6 of section 256 to elect a member or members to the committee shall be held on or before the second Wednesday following the first meeting of the newly-elected board commencing at 8 o'clock in the afternoon on such date and at such place as the board may determine, and such meeting may also consider any other matters brought before it, and the provisions of subsection 6 of section 256 respecting the publicizing of the meeting apply. 1973, c. 91, s. 5, *part*.

French-speaking ratepayers to elect subsequent members to committee

258.—(1) The secretary of the board or a person appointed by the board shall call to order each meeting of French-speaking ratepayers under sections 256 and 257 and shall preside thereat for the purpose of electing a chairman of the meeting.

Election of chairman of meeting

(2) The chairman of a meeting shall appoint a secretary who shall record the proceedings of the meeting and perform such other duties as are required by the chairman.

Secretary of meeting

(3) The chairman of a meeting shall conduct the election of the member or members of the committee to be elected at such meeting and shall submit all motions to the meeting in the manner desired by the majority, and the chairman is entitled to vote on any motion and, in the case of an equality of votes with respect to the election of a member of the committee, the chairman shall provide for drawing lots to determine which of the candidates is elected and a motion on which there is an equality of votes is lost.

Procedure at meeting

(4) Notice in writing shall be given by the secretary of a meeting to the secretary of the board designating by their names and addresses the person or persons elected as members of the committee. 1973, c. 91, s. 5, *part*.

Notice of result of election

259.—(1) At the first meeting of the committee, the members shall elect from among themselves a chairman and a vice-chairman.

Chairman and vice-chairman of committee

(2) A majority of the members of the committee constitutes a quorum, and the vote of a majority of the members present at a meeting is necessary to bind the committee.

Quorum

(3) On every motion, the chairman may vote, and a motion on which there is an equality of votes is lost.

Vote of chairman, equality of votes

(4) A special meeting of the committee may be called by the chairman of the committee and shall be called by the chairman upon the request in writing of two members of the

Special meeting

committee who shall specify the objects for which the meeting is to be held, and the objects shall be stated in the notice calling the meeting. 1973, c. 91, s. 5, *part*.

Vacancies

260. Every vacancy on a committee for any cause shall be filled by appointment by the board in the case of appointed members and by the elected members of the committee in the case of elected members and every person so appointed shall hold office for the unexpired term of the member whose seat has become vacant. 1973, c. 91, s. 5, *part*.

Recommendations

261.—(1) A committee is responsible for developing proposals designed to meet the educational and cultural needs of the French-speaking pupils and the French-speaking community and for such purpose may make recommendations in respect of,

(*a*) the provision of suitable sites, accommodation and equipment;

(*b*) the establishment, operation and management of French-language instructional units;

(*c*) the use of the French language and of the English language in French-language instructional units;

(*d*) the recruitment and appointment of the required teaching, supervisory and administrative personnel;

(*e*) the establishment of the course of study and the use of textbooks;

(*f*) the development and establishment of special education programs;

(*g*) the establishment of attendance areas for French-language instructional units;

(*h*) the provision of transportation for pupils;

(*i*) the entering into agreements with other boards in respect of the provision of instruction in the French language and supervisory and consultative services;

(*j*) the provision of board, lodging, and transportation for pupils;

(*k*) the development and establishment of adult education programs;

(*l*) the use of any facility and means necessary to meet the educational and cultural needs of the French-speaking community;

(*m*) the provision of summer school programs; and

(*n*) any other matter pertaining to French-language education for French-speaking pupils.

Committee report to board

(2) The committee shall report at each regular meeting of the board.

Board to seek advice of committee

(3) The board shall seek the advice of the committee on all matters affecting the establishment, program, administration and termination of French-language instructional units before any final decision regarding such matters is taken by the board and shall provide adequate accommodation and staff to implement the decision of the board.

Consideration of recommendations by board

(4) The board shall consider any recommendation submitted to it in writing by the committee and shall not refuse its approval without having given the committee an opportunity to be heard by the board or by any committee of the board to which such recommendation is referred and, where a board refuses a recommendation of the committee, it shall, within thirty days after receiving the recommendation of the committee, forward to the committee written reasons for its refusal.

Referral by committee to Languages of Instruction Commission

(5) Upon receipt of a refusal and the reasons therefor under subsection 4, the committee may, by motion, refer the matter to the Languages of Instruction Commission of Ontario, in which case it shall send to the Commission and to the board copies of the motion, the recommendation of the committee and the written reasons of the board for its refusal. 1973, c. 91, s. 5, *part*.

Attendance of committee chairman at board committee meeting

262.—(1) The chairman of the committee or a member of the committee designated by him may attend any meeting of a committee of the board and shall be given the opportunity to be heard at such meeting in respect of any matter that affects French-speaking pupils and that is within the jurisdiction of such committee of the board.

Distribution of administrative materials

(2) Notices, agendas and minutes in respect of meetings of the board shall be distributed to members of the committee together with such supporting documents as may be agreed upon by the board and the committee.

Formation of sub-committees

(3) The committee may, at its discretion, form sub-committees to assist it in its work.

Committee may hold public meetings

(4) The committee may hold such public meetings to report upon its work as it considers necessary or desirable. 1973, c. 91, s. 5, *part*.

Resources and services to be provided by board

263.—(1) The board shall make available to the committee the resources and services provided for a committee of the board.

Annual report of committee

(2) The chairman of the committee shall cause to be prepared in French and English an annual report, and the report shall be included in that of the board where the board publishes a report.

Services of professional staff to be provided

(3) The committee may, through the chief executive officer of the board, obtain the advice and assistance of such supervisory officers and teachers employed by the board as the committee may request. 1973, c. 91, s. 5, *part*.

Allowance

264.—(1) Each member of the committee who is not a member of the board shall receive an allowance in accordance with subsection 1 of section 164, except that the maximum allowance shall be based upon the enrolment in French-language instructional units and subsection 5 of the said section 164 applies *mutatis mutandis* to such member.

Attendance at meetings and conferences

(2) The board may authorize a member of the committee to attend on the same basis as a member of the board such conferences and meetings as the board considers necessary or desirable for the effective functioning of the committee, and subsections 3 and 4 of section 164 apply *mutatis mutandis* to a member of the committee.

Provincial association membership fee

(3) The board shall, on behalf of the members of the committee, pay all or part of a fee required for membership in a provincial association of French-language committees where the committee desires such membership. 1973, c. 91, s. 5, *part*.

English or Anglais as subject required in grades 9 to 12

265. Notwithstanding any other provision in this Part, English or Anglais shall be an obligatory subject of instruction for every pupil of grades 9 to 12 who is enrolled in a French-language school and shall be a required subject for a certificate or diploma issued to such a pupil. 1973, c. 91, s. 5, *part*.

English-language classes where French-language school or classes established

266.—(1) Where a board has provided one or more French-language secondary schools and a number of pupils of the board elect to be taught in the English language, section 255 applies *mutatis mutandis* in respect of provision for the use of the English language in instruction.

(2) Where the number of English-speaking pupils of a board is fewer than the number of pupils of the board for whom French is the language of instruction and, Establishment of English-language advisory committee

(*a*) ten or more English-speaking ratepayers of the secondary school district apply in writing to the board for the establishment or extension in a secondary school of a class, group or program in which the English language is or is to be used in instruction; or

(*b*) the board establishes or extends or decides to establish or extend a class, group or program in which the English language is or is to be used in instruction,

the board shall establish an English-language advisory committee, and the provisions of sections 254 to 267 that apply to a committee in respect of the French-speaking ratepayers, pupils and community and in respect of French-language instructional units apply *mutatis mutandis* to an English-language advisory committee in respect of the English-speaking ratepayers, pupils and community and in respect of schools or classes in which English is the language of instruction. 1973, c. 91, s. 5, *part*.

267.—(1) A board, on the request of an English-speaking pupil of the board or, where the pupil is a minor, of his parent or guardian, may admit the pupil to a French-language instructional unit if his admission is approved by a majority vote of an admissions committee appointed by the board and composed of the principal of the school in which the French-language instructional unit is operated, a French-language teacher of such school and, subject to subsection 2, a French-speaking supervisory officer employed by the board. Admission of pupils other than French-speaking pupils

(2) Where the board does not employ a French-speaking supervisory officer, it shall arrange for a French-speaking supervisory officer employed by another board or by the Minister to serve as a member of the admissions committee. 1973, c. 91, s. 5, *part*. Where board has no French-speaking supervisory officer

Languages of Instruction Commission of Ontario

268. In this Part, Interpretation

(*a*) "Commission" means the Languages of Instruction Commission of Ontario established under this Part;

(*b*) "committee" means a French-language advisory committee or an English-language advisory committee established under section 256;

(*c*) "ratepayer" in respect of a board means a person entitled to vote at an election of members of the board. 1973, c. 92, s. 18, *part*.

Establishment of Commission

269.—(1) A commission to be known as the Languages of Instruction Commission of Ontario is hereby established and shall be composed of five members appointed by the Lieutenant Governor in Council at least two of whom shall be French-speaking and at least two of whom shall be English-speaking, and one of the members shall be appointed as chairman.

Term, reappointment and remuneration

(2) Members of the Commission shall hold office for a term of three years, may be reappointed, and shall be paid such remuneration as may be determined by the Lieutenant Governor in Council.

Vacancies

(3) Where a vacancy occurs in the membership of the Commission, the vacancy may be filled for the unexpired portion of the term of the person whose office has become vacant.

Commission is responsible to the Minister

(4) The Commission is responsible to the Minister for its operation and shall be assisted by such employees in the public service of Ontario as the Minister may assign for the purpose and may, as required from time to time, obtain the services of a lawyer.

Quorum

(5) A quorum consists of three members of whom at least one shall be French-speaking and one English-speaking.

Recommendation

(6) A recommendation of the Commission requires the approval of at least a majority of the members of the Commission.

Duties of Commission

(7) The Commission shall consider matters referred to it by committees and requests for advice and assistance on questions in respect of which a committee may make recommendations, from boards and committees, and where there is no committee, from a group of ratepayers of the board concerned determined by the Commission to be representative of the French-speaking or English-speaking minority, as the case may be, within the jurisdiction of the board.

Spokesman

(8) A group referred to in subsection 7 shall name one of its members as its spokesman.

Referral to Commission by Minister

(9) The Minister may refer to the Commission any matter relating to instruction in the French language or, where the pupils of a board who receive instruction in the English

language are a minority of the pupils of a board, any matter relating to instruction in the English language.

Determination by Commission re establishment of advisory committee

(10) Where, within the area of jurisdiction of a board, there is doubt as to whether the French-speaking or English-speaking pupils are in the minority, the Commission has the power to determine whether there shall be a French-language advisory committee or an English-language advisory committee, or both, and the board shall establish such committee or committees as the Commission determines.

Investigation of irregularity

(11) Where, within thirty days of the election of a committee, the board or the committee requests the Commission to investigate an alleged irregularity respecting the election of a member of the committee, the Commission shall investigate such election and give the member an opportunity to make representation to the Commission and shall declare the member to be elected if the Commission finds the election and procedures to be substantially in accordance with this Part or declare his seat vacant if the Commission finds the election and procedures not to be substantially in accordance with this Part and shall send a copy of its decision and reasons therefor to the board or committee and to the member.

Deferral of action by board

(12) When a matter is referred to the Commission, the board concerned shall defer action thereon until the matter has been resolved.

Commission shall request mediation or reject referral

(13) When a matter is referred to the Commission it shall,

(*a*) forthwith appoint one or more mediators where it considers that the furtherance of such matter may be conducive to meeting the educational and cultural needs of the French-speaking or the English-speaking community; or

(*b*) except where a matter is referred by the Minister, take no further action where it considers that the furtherance of such matter is not conducive to meeting the educational and cultural needs of the French-speaking or the English-speaking community.

Where referral rejected

(14) Where the Commission takes no further action on a referral it shall forthwith send notice in writing of its decision and of the reasons therefor to the board, the Minister and either the committee or the spokesman referred to in subsection 8.

Notice of appointment of mediator

(15) Where the Commission makes an appointment under subsection 13 it shall communicate the name and address of each mediator to,

(*a*) the Minister;

(*b*) the secretary of the board; and

(*c*) the chairman of the committee,

and where a committee has not been established by a board, to the spokesman of the group referred to in subsection 8. 1973, c. 92, s. 18, *part, amended.*

Remuneration

270.—(1) Mediators shall be paid such remuneration as the Lieutenant Governor in Council may determine.

Who not eligible as mediator

(2) A mediator shall not be a member of the Commission.

Duties of mediator

(3) The mediator or mediators shall, after inquiring into the matter referred for mediation and conferring with the parties involved, endeavour to bring about an agreement and shall, within twenty-one days of being appointed, report to the Commission the agreement that has been reached, or the failure to bring about agreement.

Extension of period of mediation

(4) The period referred to in subsection 3 may be extended by the Commission or by agreement of the parties to the mediation. 1973, c. 92, s. 18, *part, amended.*

Duties of Commission

271.—(1) Where the report of the mediator or mediators to the Commission indicates failure to bring about an agreement, the Commission shall consider and inquire into all pertinent aspects of the matter referred to mediation and shall, within twenty-one days of its receipt of the report, recommend to the board in writing a course of action that it considers appropriate to settle the matter and shall send copies of its recommendation to the Minister and either the committee or the spokesman referred to in subsection 8 of section 269.

Report of board to Minister

(2) Within thirty days of its receipt of a copy of the recommendation of the Commission, the board shall report in writing to the Minister its decision in respect of the recommendation of the Commission and shall forward copies of the decision to the Commission and to the committee or spokesman of the group, as the case may be. 1973, c. 92, s. 18, *part.*

PART XII

GENERAL

272. The following are repealed: Repeals

1. *The Ministry of Education Act.* R.S.O. 1970, c. 111
2. *The Ministry of Education Amendment Act, 1971.* 1971, c. 89
3. Section 61 of *The Government Reorganization Act, 1972.* 1972, c. 1, s. 61
4. *The Ministry of Education Amendment Act, 1972.* 1972, c. 73
5. *The Ministry of Education Amendment Act, 1973.* 1973, c. 44
6. *The Public Schools Act.* R.S.O. 1970, c. 385
7. *The Public Schools Amendment Act, 1971.* 1971, c. 69
8. Paragraph 27 of the Schedule to *The Age of Majority and Accountability Act, 1971.* 1971, c. 98, Sched., par. 27
9. *The Public Schools Amendment Act, 1972.* 1972, c. 74
10. *The Public Schools Amendment Act, 1973.* 1973, c. 37
11. *The Schools Administration Act.* R.S.O. 1970, c. 424
12. *The Schools Administration Amendment Act, 1971.* 1971, c. 90
13. Section 62 of *The Government Reorganization Act, 1972.* 1972, c. 1, s. 62
14. *The Schools Administration Amendment Act, 1972.* 1972, c. 77
15. *The Schools Administration Amendment Act, 1972 (No. 2).* 1972, c. 160
16. *The Schools Administration Amendment Act, 1973.* 1973, c. 92
17. *The Schools Administration Amendment Act, 1973 (No. 2).* 1973, c. 118
18. *The Secondary Schools and Boards of Education Act.* R.S.O. 1970, c. 425
19. *The Secondary Schools and Boards of Education Amendment Act, 1971.* 1971, c. 68
20. Paragraph 29 of the Schedule to *The Age of Majority and Accountability Act, 1971.* 1971, c. 98, Sched., par. 29

1972, c. 1, s. 63 — 21. Section 63 of *The Government Reorganization Act, 1972.*

1972, c. 75 — 22. *The Secondary Schools and Boards of Education Amendment Act, 1972.*

1972, c. 136 — 23. *The Secondary Schools and Boards of Education Amendment Act, 1972 (No. 2).*

1973, c. 91 — 24. *The Secondary Schools and Boards of Education Amendment Act, 1973.*

R.S.O. 1970, c. 430 — 25. *The Separate Schools Act.*

1971, c. 70 — 26. *The Separate Schools Amendment Act, 1971.*

1971, c. 98, Sched., par. 31 — 27. Paragraph 31 of the Schedule to *The Age of Majority and Accountability Act, 1971.*

1972, c. 1, s. 64 — 28. Section 64 of *The Government Reorganization Act, 1972.*

1972, c. 76 — 29. *The Separate Schools Amendment Act, 1972.*

1972, c. 137 — 30. *The Separate Schools Amendment Act, 1972 (No. 2).*

1973, c. 117 — 31. *The Separate Schools Amendment Act, 1973.*

Commencement — **273.**—(1) This Act, except paragraph 43 of subsection 1 of section 147 and subsections 1, 2 and 3 of section 163, comes into force on the 1st day of January, 1975.

Idem — (2) Paragraph 43 of subsection 1 of section 147 and subsections 1, 2 and 3 of section 163 shall be deemed to have been in effect on and after the 1st day of January, 1974.

Short title — **274.** This Act may be cited as *The Education Act, 1974.*

The Education Act, 1974

1st Reading

May 30th, 1974

2nd Reading

November 18th, 1974

3rd Reading

THE HON. T. L. WELLS
Minister of Education

(Reprinted as amended by the Social Development Committee)

1974

BILL 72

4TH SESSION, 29TH LEGISLATURE, ONTARIO
23 ELIZABETH II, 1974

The Education Act, 1974

THE HON. T. L. WELLS
Minister of Education

TORONTO
PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO

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BILL 72 **1974**

The Education Act, 1974

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

INTERPRETATION

1.—(1) In this Act and the regulations, except where otherwise provided in the Act or regulations, Interpretation

1. "adjoining" means touching at any point;

2. "average daily enrolment" for a calendar year means the number obtained by adding,

   i. the sum of,

      a. the product of 0.3 and the number of pupils registered for more than half-day or half-time attendance on the last school day in each of the months of January and April,

      b. the product of 0.4 and the number of pupils registered for more than half-day or half-time attendance on the last school day in September,

      c. the product of 0.15 and the number of pupils registered for half-day or half-time attendance on the last school day in each of the months of January and April,

      d. the product of 0.2 and the number of pupils registered for half-day or half-time attendance on the last school day in September,

      e. for each pupil, except a pupil referred to in subparagraph ii, who is registered

for less than half-day or half-time attendance, the product of 0.06 and the number of hours and fractions thereof of instruction for which such pupil is registered on the last school day in each of the months of January and April, and

f. for each pupil, except a pupil referred to in subparagraph ii, who is registered for less than half-day or half-time attendance, the product of 0.08 and the number of hours and fractions thereof of instruction for which such pupil is registered on the last school day in September, and

ii. the result obtained by,

a. multiplying, for each summer-school course and for each evening course established by the board, the number of pupils enrolled in the course by one-fifth of the number of hours of instruction in the course,

b. ascertaining the sum of the products obtained under sub-subparagraph a,

c. subtracting from the sum obtained under sub-subparagraph b, one-fifth of the number of hours lost as a result of late registrations or early withdrawals for any cause by all pupils enrolled in such courses, and

d. dividing the result obtained under sub-subparagraph c by the number of school days in the calendar year;

3. "board" means a board of education, public school board, secondary school board, Roman Catholic separate school board or Protestant separate school board;

4. "board of education" includes a divisional board;

5. "city" includes a separated town and the portion of a city that is in one school division;

6. "combined separate school zone" means a union of two or more separate school zones;

7. "county" includes a provisional county and united counties;

8. "county combined separate school board" means a separate school board established for a county combined separate school zone;

9. "county combined separate school zone" means a union of the separate school zones whose centres are within an area designated by the regulations that includes a county or all or part of a regional municipality that is not in a territorial district;

10. "county municipality" means a municipality that forms part of a county for municipal purposes and includes a municipality, other than a city, that forms part of a regional municipality that is not in the territorial districts;

11. "current expenditure" means an expenditure for operating purposes or a permanent improvement from funds other than those arising from the sale of a debenture, from a capital loan or from a loan pending the sale of a debenture;

12. "current revenue" means all amounts earned by a board, together with the amounts to which it becomes entitled, other than by borrowing, that may be used to meet its expenditures;

13. "debt charge" means the amount of money necessary annually,

    i. to pay the principal due on long-term debt not payable from a sinking fund,

    ii. to provide a fund for the redemption of debentures payable from a sinking fund, and

    iii. to pay the interest due on all debt referred to in subparagraphs i and ii;

14. "defined city" means,

    i. the City of Hamilton,

    ii. the City of London, and

    iii. the City of Windsor;

15. "district combined separate school board" means a separate school board established for a district combined separate school zone;

16. "district combined separate school zone" means a union of the separate school zones whose centres are within an area in the territorial districts that is designated by the regulations;

17. "district municipality" means a municipality, except a city, in a territorial district;

18. "district school area" means a school section in the territorial districts that is not a school division or a school section designated under section 68;

19. "divisional board" means a divisional board of education;

20. "elementary school" means a public school, Roman Catholic separate school or Protestant separate school;

21. "guardian" means a person who has been appointed by order of a court as the legal guardian of a child in place of a parent;

22. "head office" of a board means the place at which the minute book, financial statements and records, and seal of the board are ordinarily kept;

23. "intermediate division" means the division of the organization of a school comprising the first four years of the program of studies immediately following the junior division;

24. "judge" means the judge of the county or district court of the county or district in which the head office of the board is situate;

25. "junior division" means the division of the organization of an elementary school comprising the first three years of the program of studies immediately following the primary division;

26. "locality" means a part of territory without municipal organization that is deemed to be a district municipality for the purposes of a divisional board or of a district combined separate school board;

27. "Minister" means the Minister of Education;

28. "Ministry" means the Ministry of Education;

29. "municipality" means a city, town, village, township or improvement district;

30. "occasional teacher" means a teacher employed to teach as a substitute for a permanent, probationary or temporary teacher who has died during the school year or who is absent from his regular duties for a temporary period that is less than a school year and that does not extend beyond the end of a school year;

31. "parcel of land" means a parcel of land that by *The Assessment Act* is required to be separately assessed; R.S.O. 1970, c. 32

32. "part-time teacher" means a teacher employed by a board on a regular basis for other than full-time duty;

33. "permanent improvement" includes,

i. a school site and an addition or an improvement to a school site,

ii. a building used for instructional purposes and any addition, alteration or improvement thereto,

iii. an administration office, a residence for teachers or caretakers and a storage building for equipment and supplies, and any addition, alteration or improvement thereto,

iv. furniture, furnishings, library books, instructional equipment and apparatus, and equipment required for maintenance of the property,

v. a bus or other vehicle, including watercraft, for the transportation of pupils,

vi. the obtaining of a water supply or an electrical power supply on the school property or the conveying of a water supply or an electrical power supply to the school from outside the school property,

vii. initial payments or contributions for past service pensions to a pension plan for officers and other employees of the board;

34. "permanent teacher" means a teacher employed by a board under a permanent teacher's contract made in accordance with the regulations and includes a teacher whose contract is deemed to include the terms and conditions contained in the form of contract prescribed in the regulations for a permanent teacher;

1972, c. 95

35. "polling list" means a polling list as defined in *The Municipal Elections Act, 1972*;

36. "population" means the population as determined by the latest census taken under section 23 or 23*a* of *The Assessment Act*;

R.S.O. 1970, c. 32

37. "prescribed" means prescribed by the regulations;

38. "primary division" means the division of the organization of an elementary school comprising junior kindergarten, kindergarten and the first three years of the program of studies immediately following kindergarten;

39. "principal" means a teacher appointed by a board to perform in respect of a school the duties of a principal under this Act and the regulations;

40. "private school" means an institution at which instruction is provided at any time between the hours of 9 a.m. and 4 p.m. on any school day for five or more pupils who are of or over compulsory school age in any of the subjects of the elementary or secondary school courses of study and that is not a school as defined in this section;

41. "probationary teacher" means a teacher employed by a board under a probationary teacher's contract made in accordance with the regulations;

42. "provincial supervisory officer" means a supervisory officer employed by the Minister;

43. "public school elector", in respect of an area for which one or more members of a board are to be elected by public school electors, means a public school elector under *The Municipal Elections Act, 1972*, who is qualified to vote at the election for such members in such area;

44. "regulations" means the regulations made under this Act;

45. "reserve fund" means a reserve fund established under section 308 of *The Municipal Act*; R.S.O. 1970, c. 284

46. "Roman Catholic" includes a Catholic of the Greek or Ukrainian Rite in union with the See of Rome;

47. "rural separate school" means a separate school for Roman Catholics in a township or territory without municipal organization that is not part of a county or district combined separate school zone;

48. "rural separate school zone" means a separate school zone in respect of a rural separate school;

49. "school" means,

    i. the body of public school pupils or separate school pupils or secondary school pupils that is organized as a unit for educational purposes under the jurisdiction of the appropriate board, or

    ii. the body of pupils enrolled in any of the elementary or secondary school courses of study in an educational institution operated by the Government of Ontario,

    and includes the teachers and other staff members associated with such unit or institution and the lands and premises used in connection therewith;

50. "school day" means a day that is within a school year and is not a school holiday;

51. "school division" means the area in which a divisional board has jurisdiction;

52. "school section" means the area in which a public school board or board of education has jurisdiction for public school purposes;

53. "school site" means land or interest therein or premises required by a board for a school, school playground, school garden, teacher's residence, caretaker's residence, gymnasium, offices, parking areas or for any other school purpose;

54. "school year" means the period prescribed as such by, or approved as such under, the regulations;

55. "secondary school" means a school that is under the jurisdiction of a secondary school board;

56. "secondary school district" means the area in which a secondary school board or a board of education has jurisdiction for secondary school purposes;

57. "secretary" and "treasurer" includes a secretary-treasurer;

58. "senior division" means the division of the organization of a secondary school comprising the three years of the program of studies following the intermediate division;

59. "separated town" means a town separated for municipal purposes from the county in which it is situated;

60. "separate school elector", in respect of an area for which one or more members of a board are to be elected by separate school electors, means a separate school elector under *The Municipal Elections Act, 1972*, who is qualified to vote at the election of such members in such area;

1972, c. 95

61. "separate school supporter" means a Roman Catholic ratepayer,

i. in respect of whom notice of school support has been given in accordance with section 116 and notice of withdrawal of support has not been given under section 117, or

ii. who has directed education taxes to the support of separate schools by confirming or revising an enumeration notice in accordance with section 23 of *The Assessment Act* and the regulations made thereunder,

R.S.O. 1970, c. 32

and includes the Roman Catholic spouse of such ratepayer;

62. "separate school zone" means the area in which property may be assessed to support a separate school or schools for Roman Catholics under the jurisdiction of one separate school board;

63. "supervisory officer" means a person who is qualified in accordance with the regulations governing supervisory officers and who is employed,

i. by a board, or

ii. in the Ministry and designated by the Minister,

to perform such supervisory and administrative duties as are required of supervisory officers by this Act and the regulations;

64. "teacher" means a person who holds a valid certificate of qualification as a teacher in an elementary or a secondary school in Ontario;

65. "temporary teacher" means a person employed to teach under the authority of a letter of permission;

66. "trainable retarded child" means a child whose intellectual functioning is below the level at which he could profit from a special education program for educable retarded children;

67. "urban municipality" means a city, town or village;

68. "urban school section" means a school section, except a school division or a district school area, that includes a municipality;

69. "urban separate school" means a separate school for Roman Catholics in an urban municipality;

70. "urban separate school zone" means a separate school zone established in an urban municipality that does not form part of a county or district combined separate school zone;

71. "vocational school" includes a special vocational school. R.S.O. 1970, c. 111, s. 1 (*d*); R.S.O. 1970, c. 424, s. 1; R.S.O. 1970, c. 425, s. 27 (1); R.S.O. 1970, c. 430, ss. 17, 80 (1); 1971, c. 90, s. 1 (1); 1972, c. 1, s. 62; 1972, c. 73, s. 1; 1972, c. 75, s. 6 (1, 2); 1972, c. 77, s. 1 (1, 3, 4); 1973, c. 92, s. 1, *amended*.

Authority or obligation of parent vested in pupil of 18 years of age

(2) Where by or under this Act any authority or right is vested in, or any obligation is imposed upon, or any reimbursement may be made to, a parent or guardian of a pupil, such authority, right, obligation or reimbursement shall, where the pupil is an adult, be vested in or imposed upon or made to the pupil, as the case may be. 1972, c. 77, s. 1 (6).

Existing school arrangements continued

(3) Until altered under the authority of this or any other Act, all school jurisdictions and boards continue as they now exist and all members of boards duly elected and all officers duly appointed continue in office, and all agreements, contracts, obligations, assessments and tax bills heretofore duly made in relation to elementary and secondary schools and existing when this Act takes effect continue subject to the provisions of this Act. R.S.O. 1970, c. 385, s. 3.

Questions re proceedings as to formation of school section

(4) Where any question arises touching the validity of any proceeding with respect to the formation, alteration or dissolution of a school section or touching any by-law with respect to any of such matters, the question shall be raised, heard and determined upon a summary application to the judge,

and no proceeding or by-law with respect to the formation, alteration or dissolution of a school section is invalid or shall be set aside because of failure to comply with the provisions of any Act applicable to the proceeding or by-law, unless, in the opinion of the judge before which the proceeding or by-law is called in question, the proceeding or by-law, if allowed to stand, would cause substantial injustice to be done to any person affected thereby. R.S.O. 1970, c. 385, s. 52, *amended*.

Amendment of references
R.S.O. 1970, cc. 111, 385, 424, 425, 430
1974, c. ....

(5) A reference in any Act or regulation to *The Department of Education Act*, *The Ministry of Education Act*, *The Public Schools Act*, *The Schools Administration Act*, *The Secondary Schools and Boards of Education Act* or *The Separate Schools Act* shall be deemed to be a reference to *The Education Act, 1974*.

Effect on separate schools

(6) The consolidation in this Act of the Acts referred to in section 272 shall not adversely affect any right or privilege respecting separate schools enjoyed by separate school boards or their supporters under the Acts repealed by this Act as they existed immediately prior to the coming into force of this Act. *New*.

PART I

MINISTRY OF EDUCATION

Ministry continued

2.—(1) The ministry of the public service known as the Ministry of Education is continued.

Minister to have charge

(2) The Minister shall preside over and have charge of the Ministry. R.S.O. 1970, c. 111, s. 2; 1972, c. 1, s. 61 (3).

Administration

(3) The Minister is responsible for the administration of this Act and the regulations and of such other Acts and the regulations thereunder as may be assigned to him by the Lieutenant Governor in Council. R.S.O. 1970, c. 111, s. 3.

Annual report

3. The Minister shall, after the close of each fiscal year, submit to the Lieutenant Governor in Council a report upon the affairs of the Ministry for the immediately preceding fiscal year and shall then lay the report before the Assembly if it is in session or, if not, at the next ensuing session. 1972, c. 1, s. 61 (4), *amended*.

Additions to enrolment in special cases

4. The Minister may, in respect of a school, require to be included in the enrolment on any date the number of pupils who were absent from school because of any condition considered by the Minister to constitute a special circumstance or an emergency. 1973, c. 44, s. 2, *amended*.

5.—(1) Subject to the approval of the Lieutenant Governor in Council, the Minister may order the closing of a school or any class thereof for a specified period. R.S.O. 1970, c. 111, s. 6 (1). Closing of school or class

(2) Where a school or class is closed for a specified period under subsection 1, the pupils in such school or class shall for all purposes, including the calculation of general legislative grants and fees, be deemed to be in attendance. 1971, c. 89, s. 2. Pupils deemed in attendance

6.—(1) The Lieutenant Governor in Council may authorize the Treasurer of Ontario to guarantee payment by the Province of any debentures issued by a board in Ontario for any school purpose for which the board is authorized to issue debentures. Guarantee of debentures

(2) The form of the guarantee and the manner of its execution shall be determined by the Lieutenant Governor in Council, and every guarantee given or purporting to be given under this section is binding upon the Province and is not open to question upon any ground whatsoever. Form of guarantee

(3) Any debenture issued by a board, payment of which is guaranteed by the Province under this section, is valid and binding upon the board by which it is issued and the ratepayers thereof, according to its terms, and the validity of any debenture so guaranteed is not open to question upon any ground whatsoever. R.S.O. 1970, c. 111, s. 7. Validity of guaranteed debentures

7. Notwithstanding anything in any Act fixing the rate of interest to be paid or credited to any board by the Treasurer of Ontario upon school securities, sinking funds or debentures deposited with or in the hands of the Treasurer of Ontario either as an investment by the Province or for investment on behalf of a board, the rate at which interest shall be allowed to, paid by or credited to a board upon any such securities, sinking funds or debentures heretofore or hereafter deposited with or purchased by the Treasurer of Ontario shall be the current rate of interest as fixed from time to time by the Lieutenant Governor in Council, to be based upon the average rate of interest actually payable upon the moneys borrowed on behalf of Ontario as a provincial loan and then outstanding. R.S.O. 1970, c. 111, s. 8. Fixing rate of interest on debentures, etc., held by Treasurer

8.—(1) The Minister may, Powers of Minister:

(*a*) name the diplomas and certificates that are to be granted to pupils and prescribe their form and the conditions under which they are to be granted; diplomas and certificates

(*b*) prescribe the courses of study that shall be taught and the courses of study that may be taught in the primary, junior, intermediate and senior divisions; courses of study

courses and areas of study

(*c*) in respect of schools under the jurisdiction of a board,

(i) issue curriculum guidelines and require that courses of study be developed therefrom and establish procedures for the approval of courses of study that are not developed from such curriculum guidelines,

(ii) prescribe areas of study and require that courses of study be grouped thereunder and establish procedures for the approval of alternative areas of study under which courses of study shall be grouped, and

(iii) approve or permit boards to approve,

a. courses of study that are not developed from such curriculum guidelines, and

b. alternative areas of study under which courses of study shall be grouped,

and authorize such courses of study and areas of study to be used in lieu of or in addition to any prescribed course of study or area of study;

procedures

(*d*) establish procedures by which and the conditions under which books and other learning materials are selected and approved by the Minister;

textbooks, reference books, etc.

(*e*) select and approve for use in schools textbooks, library books, reference books and other learning materials;

publication of book lists

(*f*) cause to be published from time to time lists of textbooks, reference books and library books, selected and approved by the Minister for use in elementary and secondary schools;

daily register

(*g*) prescribe the form of the register of attendance and the manner of its use in recording the daily attendance of pupils of schools, or approve the use of an alternate method of recording such daily attendance, and prescribe the form in which enrolment and attendance data shall be submitted to the Minister;

letter of standing

(*h*) grant a letter of standing to a person who is a qualified teacher in a jurisdiction outside Ontario and who holds academic and professional qualifications equivalent to those required in Ontario at the time of the issuing of the letter of standing;

letter of permission

(*i*) grant a letter of permission to a board authorizing the board to employ as a teacher a person not

qualified as such if the Minister is satisfied that no teacher is available, but a letter of permission shall be effective only for the period, not exceeding one year, that the Minister may specify therein;

(*j*) grant a temporary letter of approval to a board authorizing the board to appoint or assign, for a period not exceeding one year, a teacher to teach a subject or hold a position where the teacher does not hold the certificate required for teaching the subject; letter of approval

(*k*) withdraw any letter of permission or temporary letter of approval granted under this Act; withdraw letter

(*l*) suspend or cancel and reinstate any interim, temporary, permanent, special or other certificate of qualification or letter of standing; suspend or cancel

(*m*) accept in lieu of any requirement prescribed for a teacher, head of a department, principal, director, supervisor or supervisory officer, or for a candidate for a certificate or for admission to a school, such experience, academic scholarship or professional training as he considers equivalent thereto, and may require such evidence thereof as he considers necessary; accept equivalent qualification

(*n*) require employees of school boards to submit to medical examinations; medical examinations

(*o*) provide or approve and review courses for teachers, principals and supervisory officers; courses

(*p*) provide for the development, distribution and supervision by the Ministry of correspondence courses; correspondence courses

(*q*) provide for, and prescribe the conditions of, the granting of scholarships and awards to pupils; scholarships

(*r*) in respect of teachers' colleges, teachers' colleges

(i) define courses of study and subjects to be taught,

(ii) recommend reference books and library books,

(iii) approve textbooks,

(iv) determine the number of terms and the dates upon which each term begins and ends, and

(v) grant Bachelor of Education degrees;

(*s*) in respect of schools for the deaf and the blind, determine the number of terms and the dates upon which each term begins and ends; provincial schools

apportion federal grants

(*t*) apportion and pay all sums received for educational purposes from the Government of Canada or any source other than an appropriation by the Legislature, in accordance with the terms of the grant, if any, and otherwise in any manner he considers proper;

educational advancement programs, activities and projects and accountable advances

(*u*) make payments out of funds appropriated therefor by the Legislature to a board, an individual, a voluntary association or a corporation without share capital having objects of a charitable or educational nature,

(i) to assist or advance programs, activities or projects for students that involve a cultural and educational exchange with other provinces and countries, provincial or interprovincial travel, school twinning and related assistance, leadership training, or summer employment, and

(ii) to foster and promote educational advancement by means of programs, activities or projects that are provided for visiting educational officials, designed to further the professional development of teachers and supervisory officers including exchange of such personnel, or considered by the Minister to be valuable in advancing a particular area of study,

and, subject to the terms and conditions that are approved for such purpose by the Lieutenant Governor in Council, make an accountable advance to the recipient of a payment under this clause or to an individual, not being a member of the public service, who conducts or assists in conducting or participates in any such program, activity or project. R.S.O. 1970, c. 111, s. 10 (1); 1972, c. 73, s. 3; 1973, c. 44, s. 3, *amended*.

Application R.S.O. 1970, c. 410

(2) An act of the Minister under this section is not a regulation within the meaning of *The Regulations Act*. R.S.O. 1970, c. 111, ss. 9, 12 (1), pars. 19, 20; 1972, c. 73, s. 2. *amended*.

Powers of Minister:

9. The Minister may,

advisory body

(*a*) appoint such advisory or consultative bodies as may be considered necessary by the Minister from time to time;

commission of inquiry

(*b*) appoint as a commission one or more persons, as he considers expedient, to inquire into and report

upon any school matter, and such commission has the powers of a commission under Part II of *The Public Inquiries Act, 1971*, which Part applies to such inquiry as if it were an inquiry under that Act; 1971, c. 49

(*c*) submit a case on any question arising under this Act to a judge of the Supreme Court for his opinion and decision or, by leave of a judge of the Supreme Court, to the Court of Appeal for its opinion and decision. R.S.O. 1970, c. 111, s. 10 (1); 1972, c. 73, s. 3, *amended*. secure legal opinion

10.—(1) Subject to the approval of the Lieutenant Governor in Council, the Minister may make regulations in respect of schools or classes established under this Act, or any predecessor of this Act, and with respect to all other schools supported in whole or in part by public money, Regulations

1. for the establishment, organization, administration and government thereof; general

2. governing the admission of pupils; admit pupils

3. prescribing the manner in which records in respect of pupils of elementary and secondary schools shall be established and maintained, including the forms to be used therefor and the type of information that shall be kept and recorded, and providing for the retention, transfer and disposal of such records; pupil records

4. providing for the disposition of records established prior to the 1st day of September, 1972, in respect of pupils; disposition of present pupil records

5. governing the establishment, organization and administration of special education programs, facilities and services for pupils; special education

6. defining and governing evening classes; evening classes

7. requiring boards to purchase books for the use of pupils; purchase books

8. prescribing the accommodation and equipment of buildings and the arrangement of premises; accommodation and equipment

9. defining and governing programs of recreation, camping, physical education and adult education; recreation programs

certificates and letters of standing

10. governing the granting, suspending and cancelling of permanent, temporary, interim, special and other certificates of qualification, and letters of standing;

letter of permission

11. governing the granting to a board of a letter of permission and a temporary letter of approval and providing for the withdrawal of such letters;

teacher's contract

12. prescribing the form of contract that shall be used for every contract entered into between a board and a permanent teacher or a probationary teacher for the services of the teacher, and prescribing in the form of contract the terms and conditions of the contract;

schools on Crown lands

13. governing the establishment and operation of public and secondary schools on lands held by the Crown in right of Canada or Ontario or by an agency thereof, or on other lands that are exempt from taxation for school purposes, and providing for the payment of moneys to assist in the cost of establishment and maintenance of such schools;

pupils on Crown lands, wards of children's aid society and in approved homes, etc.

14. governing the payment of the cost of education at elementary and secondary schools of pupils who,

i. reside in the territorial districts, or on lands held by the Crown in right of Canada or Ontario or by an agency thereof, or on other lands that are exempt from taxation for school purposes,

ii. are wards of or in the care of a children's aid society, or

R.S.O. 1970, cc. 270, 369

iii. are placed in an approved home as defined in *The Mental Hospitals Act* or a detention and observation home established under *The Provincial Courts Act*;

board, lodging and transportation of pupils

15. providing for assistance in the payment of board, lodging and transportation costs of elementary and secondary school pupils;

fees of examiners

16. prescribing the fees to be paid to presiding officers and examiners in connection with examinations and by whom and in what manner such fees and other expenses in connection with such examinations shall be borne and paid;

17. governing the provision of religious exercises and religious education in public and secondary schools and providing for the exemption of pupils from participating in such exercises and education and of a teacher from teaching, and a public school board or a secondary school board from providing, religious education in any school or class; religious exercises and education

18. prescribing the language or languages in which any subject or subjects shall be taught in any year of the primary, junior, intermediate or senior division; language of instruction

19. providing for and governing the exchange of teachers between Ontario and other parts of Canada and between Ontario and other jurisdictions; exchange teachers

20. governing school libraries; school libraries

21. listing the textbooks that are selected and approved by the Minister for use in schools; textbooks

22. respecting observation and practice teaching by student teachers; practice teaching

23. prescribing the powers, duties and qualifications, and governing the appointment of, teachers, supervisors, directors, supervisory officers, heads of departments, principals, superintendents, bursars, matrons, school attendance counsellors and other officials; powers and duties of teachers, etc.

24. prescribing the duties of pupils; pupils

25. governing the operation of schools for trainable retarded children; schools for trainable retarded children

26. prescribing the qualifications and experience required for the purpose of qualifying a person to teach; qualification to teach

27. prescribing forms and providing for their use; forms

28. governing the transportation of pupils; transportation

29. regulating the practice and procedure to be followed at any hearing provided for by or under this Act; practice and procedure

30. governing the assignment by a board of duties to directors of education and other supervisory officers and prescribing the procedures in respect thereof, and defining any word or expression used in such regulation; duties of supervisory officers

suspension or dismissal of supervisory officers

31. prescribing the practices and procedures to be followed by a board in the case of suspension or dismissal of a director of education or other supervisory officer. R.S.O. 1970, c. 111, s. 12 (1); 1971, c. 89, s. 3 (1, 2); 1972, c. 73, s. 4 (1-3), *amended*.

Student-Aid loan contracts

(2) Every contract executed by a person under twenty-one years of age that provides for the repayment of a loan made to such person out of the Provincial Student-Aid Loan Fund is binding upon such person and enforceable against him in the same manner and to the same extent as if he were over twenty-one years of age at the time he executed the contract. R.S.O. 1970, c. 111, s. 12 (2).

Regulations. grants

(3) Subject to the approval of the Lieutenant Governor in Council, the Minister may make regulations,

(*a*) providing for the apportionment and distribution of moneys appropriated or raised by the Legislature for educational purposes;

(*b*) prescribing the conditions governing the payment of legislative grants;

(*c*) for the purposes of legislative grants,

(i) defining any word or expression,

(ii) requiring the approval of the Minister to any amount of money or rate determined by the application of any word or expression defined,

(iii) prescribing the portions of any expenditure to which such grants apply, and

(iv) respecting the application of any part of such grants; R.S.O. 1970, c. 111, s. 12 (3) (*a-c*); 1972, c. 73, s. 4 (4), *amended*.

(*d*) providing an assessment equalization factor,

(i) for each municipality, including, for public and secondary school purposes, any part of territory without municipal organization that is deemed to be attached thereto for such purposes and, for public school purposes, any part of territory without municipal organization that is deemed to be annexed thereto for public school purposes,

(ii) for each part of territory without municipal organization that is deemed to be a district municipality for the purposes of Part III,

(iii) for each part of territory without municipal organization that is deemed to be a district municipality for the purposes of Part IV,

(iv) for each public school section that comprises only territory without municipal organization, and

(v) for each separate school zone that comprises only territory without municipal organization,

and may determine the assessment roll to which each such factor applies;

(*e*) prescribing the method of calculating the amount of the fee receivable by a board in respect of elementary or secondary school pupils or any class or group thereof, where the board provides education for one or more pupils in respect of whom a fee is payable under this Act, and defining any word or expression used in such regulation. *New*.

Application to previous year

(4) A regulation made in any year under subsection 3 may be made to apply in its operation to that year, to a previous year, or to both. 1972, c. 73, s. 4 (5), *amended*.

Estimates and expenditures

(5) Subject to the approval of the Lieutenant Governor in Council and to section 131, the Minister may make regulations governing estimates that a board is required to prepare and adopt and expenditures that may be made by a board for any purpose. R.S.O. 1970, c. 111, s. 12 (3) (*d*).

School year, terms and holidays

(6) Subject to the approval of the Lieutenant Governor in Council, the Minister may make regulations,

(*a*) prescribing and governing the school year, school terms and school holidays;

(*b*) authorizing a board to vary one or more school terms or school holidays as designated by the regulations; and

(*c*) permitting a board to designate, and to implement with the prior approval of the Minister, a school year, school terms and school holidays for one or more schools under its jurisdiction that are different from those prescribed by the regulations.

Exceptions: compulsory attendance

(7) Subject to the approval of the Lieutenant Governor in Council, the Minister may make regulations prescribing the conditions under which, and establishing the procedures by which, a child who is otherwise required to attend school under Part II and who has attained the age of fourteen years may be excused from attendance at school or required to attend school only part-time. *New*.

Regulations

(8) Subject to the approval of the Lieutenant Governor in Council, the Minister may make regulations,

fee for transcripts

(*a*) prescribing the fee to be paid to the Ministry for a transcript of standing obtained in Ontario by a pupil;

fee for certificates and letters of standing

(*b*) prescribing the fee to be paid to the Ministry for duplicates of certificates of qualification and letters of standing;

fee for statement of standing

(*c*) prescribing the fee to be paid to the Ministry by a teacher for the preparation at his request of a statement of standing obtained, or a description of courses completed, at a teacher education institution in Ontario, and the forwarding thereof to a certification authority outside Ontario or to an educational institution;

fees for evaluations

(*d*) prescribing the conditions under which fees are to be paid to the Ministry for the evaluation of academic certificates, transcripts and other documents of educational standing obtained outside Ontario, and the amounts of such fees;

fees for duplicates of certificates

(*e*) prescribing the fees to be paid for duplicates of diplomas and certificates granted to pupils;

fees for courses

(*f*) prescribing the fees to be paid for courses provided by the Ministry for teachers, principals and supervisory officers;

admission to teachers' college

(*g*) prescribing the terms and conditions upon which students may be admitted to a teachers' college, remain therein and be dismissed therefrom;

tuition fee teachers' college

(*h*) requiring the payment of a tuition fee by students attending a teachers' college and fixing the amount and manner of payment thereof. 1972, c. 73, s. 4 (3); 1973, c. 44, s. 4 (1), *amended*.

Metropolitan Toronto School Board

(9) A regulation made under this section may be made to apply to The Metropolitan Toronto School Board. 1972, c. 73, s. 4 (6).

Agreements with Canada re: physical fitness

11.—(1) The Crown in right of Ontario, represented by the Minister, with the approval of the Lieutenant Governor in Council, may make agreements with the Crown in right of Canada, represented by the Minister of National Health and Welfare of Canada respecting physical fitness, and the Minister may authorize a board to provide training in physical fitness.

pupils at Indian schools

R.S.C. 1970, c. I-6

(2) The Crown in right of Ontario, represented by the Minister, may make agreements with the Crown in right of Canada, represented by the Minister charged with the administration of the *Indian Act* (Canada), for the admission of pupils, other than Indians as defined in that Act, to schools for Indians operated under that Act.

(3) The Crown in right of Ontario, represented by the Minister, may make agreements with the Crown in right of Canada, represented by the Minister of Manpower and Immigration, respecting the establishment, awarding and payment of bursaries and scholarships to students eligible therefor under the regulations. R.S.O. 1970, c. 111, s. 13, *amended*. bursaries and scholarships

12.—(1) The Ontario School for the Deaf for the education and instruction of the deaf and partially deaf is continued under the administration of the Minister. Continuation of school for deaf

(2) The Ontario School for the Blind for the education and instruction of the blind and partially blind is continued under the administration of the Minister. School for blind

(3) Subject to the approval of the Lieutenant Governor in Council, the Minister may establish, maintain and operate one or more additional schools for the deaf or schools for the blind. Additional schools

(4) Subject to the approval of the Lieutenant Governor in Council, the Minister may, in addition to his powers under section 10, make regulations with respect to such schools for the deaf or blind, Regulations for schools for the deaf or blind

(*a*) prescribing the terms and conditions upon which pupils may,

(i) be admitted to, and remain in, a school,

(ii) reside in homes approved by a superintendent, and

(iii) be discharged from a school;

(*b*) authorizing the Minister to appoint a committee to determine any question concerning the eligibility for admission of an applicant;

(*c*) prescribing the fees, if any, that shall be paid in respect of pupils of any class or classes thereof;

(*d*) authorizing the payment of part or all of the transportation costs of pupils whose parents or guardians reside in Ontario, and fixing the maximum amount that may be paid;

(*e*) authorizing a superintendent to establish rules in respect of pupils admitted to the school;

(*f*) authorizing a superintendent to specify the type and minimum amount of clothing that a parent or guardian shall provide for a pupil;

(*g*) requiring a parent or guardian to deposit a sum of money with the bursar of a school for the purpose

of defraying the personal incidental expenses of a pupil, and fixing the amount of the deposit;

(*h*) authorizing a superintendent to dismiss a pupil and prescribing procedures in respect thereof;

(*i*) authorizing the Minister to provide training for, and certification of, teachers of the deaf and of the blind;

(*j*) designating the name of each school continued or established under this section.

Cost

(5) The cost of the establishment, maintenance and conduct of the said schools shall be payable out of moneys appropriated therefor by the Legislature. R.S.O. 1970, c. 111, s. 12, *amended*.

Teacher education

13.—(1) Subject to the approval of the Lieutenant Governor in Council, the Minister may,

(*a*) establish, maintain and conduct a college for the professional education of teachers;

(*b*) enter into an agreement with a university, a college of a university or a college to provide for the professional education of teachers by the university or college, under such terms and conditions as the Minister and the university or college may agree upon.

Practice teaching

(2) Where the Minister conducts a teacher education program, a board that operates a public, separate or secondary school shall permit its schools to be used for observation and practice teaching purposes and shall provide for the services of any of its teachers in accordance with a schedule of payments to boards that provide accommodation for practice teaching purposes and to their principals and teachers who participate therein, and such schedule shall be approved by the Lieutenant Governor in Council.

Idem

(3) Where a teacher education program is conducted pursuant to an agreement under clause *b* of subsection 1, a board that operates a public, separate or secondary school shall permit its schools to be used for observation and practice teaching purposes and shall provide for the services of any of its teachers under such terms and conditions as may be agreed upon between the board and the institution conducting the program and failing agreement in accordance with the schedule of payments to boards, principals and teachers referred to in subsection 2.

Cost of teacher education

(4) The cost of the establishment, maintenance and conduct of a college referred to in clause *a* of subsection 1 shall be payable out of moneys appropriated therefor by the Legislature.

(5) The cost of providing the professional education of teachers by a university, a college of a university or a college under an agreement referred to in clause *b* of subsection 1 shall be payable out of moneys appropriated therefor by the Legislature. 1972, c. 73, s. 6, *amended*. Idem

14.—(1) The Minister may establish, maintain and conduct camps for leadership training. Leadership training camps

(2) The cost of the establishment, maintenance and conduct of leadership training camps shall be payable out of moneys appropriated therefor by the Legislature. R.S.O. 1970, c. 111, s. 19. Expenses

15.—(1) No private school shall be operated in Ontario unless notice of intention to operate the private school has been submitted in accordance with this section. Intention to operate private school

(2) Every private school shall submit annually to the Ministry on or before the 1st day of September a notice of intention to operate a private school. Idem

(3) A notice of intention to operate a private school shall be in such form and shall include such particulars as the Minister may require. Idem

(4) Every person concerned in the management of a private school that is operated in contravention of subsection 1 is guilty of an offence and on summary conviction is liable to a fine of not more than $25 for every day such school is so operated. Offence to operate private school without filing notice of intent to operate

(5) The principal, headmaster or person in charge of a private school shall make a return to the Ministry furnishing such statistical information regarding enrolment, staff, courses of study and other information as and when required by the Minister, and any such person who fails to make such return within sixty days of the request of the Minister is guilty of an offence and on summary conviction is liable to a fine of not more than $100. Return

(6) The Minister may direct one or more supervisory officers to inspect a private school, in which case each such supervisory officer may enter the school at all reasonable hours and conduct an inspection of the school and any records or documents relating thereto, and every person who prevents or obstructs or attempts to prevent or obstruct any such entry or inspection is guilty of an offence and on summary conviction is liable to a fine of not more than $200. R.S.O. 1970, c. 111, s. 20 (1-6). Inspection of school

Inspection on request

(7) The Minister may, on the request of any person operating a private school, provide for inspection of the school in respect of the standard of instruction in the subjects leading to the secondary school graduation diploma and to the secondary school honour graduation diploma, and may determine and charge a fee for such inspection. 1972, c. 73, s. 7, *amended*.

Inspection of teachers

(8) The Minister may, on the request of a person operating a private school or of a person in charge of a conservation authority school or field centre, provide for the inspection of a teacher in such school or centre who requires the recommendation of a supervisory officer for certification purposes. *New*.

Offence for false statement

(9) Every person who knowingly makes a false statement in a notice of intention to operate a private school or an information return under this section is guilty of an offence and on summary conviction is liable to a fine of not more than $200. R.S.O. 1970, c. 111, s. 20 (8).

Variation of scholarships and awards

R.S.O. 1970, c. 166

16.—(1) Where the educational object of a gift or bequest accepted by the Treasurer of Ontario under section 15 of *The Financial Administration Act* is the establishment of a scholarship or an award that is available to one or more students in an elementary or a secondary school or a teacher training institution and,

(*a*) the selection of the recipient of the scholarship or award is based upon an examination which is no longer given;

(*b*) the school or teachers' college at which attendance is required for eligibility is no longer operated;

(*c*) reference to a county or a board in the terms and conditions of the gift or bequest is no longer appropriate by reason of the establishment of a regional municipality or a divisional board of education; or

(*d*) the course or program of instruction specified in the terms and condition is no longer available, or is no longer available at the school or teachers' college,

the Lieutenant Governor in Council on the recommendation of the Minister may, from time to time, vary the terms and conditions of the gift or bequest in respect of the qualifications for eligibility for the scholarship or award so as to ensure that such scholarship or award will be granted or given under such terms and conditions as in the opinion of the Minister

most nearly approximate those of the original gift or bequest, and the Minister may delegate his powers under the original terms and conditions of such gift or bequest to a representative of the board, or the educational institution, granting the scholarship or making the award, pursuant to any variation in the terms and conditions of the gift or bequest made under this section.

Where award is repayable loan

(2) In the case of an award in the form of a repayable loan for which no person has made application for seven consecutive years, the Lieutenant Governor in Council, on the recommendation of the Minister and with the written consent of the person making the gift or the trustee of the person making the bequest, may capitalize the fund and any interest accrued thereon held by the Treasurer of Ontario, and may change the educational object of the gift or bequest to another object of an educational nature, in which case the provisions of subsection 1 shall apply *mutatis mutandis*. 1971, c. 89, s. 5.

PART II

SCHOOL ATTENDANCE

Interpretation

17. In sections 20, 22, 25, 27 and 29, "guardian", in addition to having the meaning ascribed in law, includes any person who has received into his home another person's child who is of compulsory school age and is resident with him or in his care or legal custody. R.S.O. 1970, c. 424, s. 2.

Closing of school or class by board

18. A board may close or authorize the closing of a school or class for a temporary period where such closing appears unavoidable because of,

(*a*) failure of transportation arrangements; or

(*b*) inclement weather, fire, flood, the breakdown of the school heating plant, the failure of an essential utility or a similar emergency. 1973, c. 92, s. 3, *amended*.

Closing of schools on civic holiday

19. Where the head of the council of a municipality in which a school is situate proclaims a school day as a civic holiday for the municipality, the board may, by resolution, close any of the schools under its jurisdiction on such day. 1972, c. 77, s. 2 (3).

Compulsory attendance

20.—(1) Unless excused under this section,

(*a*) every child who attains the age of six years on or before the first school day in September in any year shall attend an elementary or secondary school on

every school day from the first school day in September in that year until he attains the age of sixteen years; and

(*b*) every child who attains the age of six years after the first school day in September in any year shall attend an elementary or secondary school on every school day from the first school day in September in the next succeeding year until the last school day in June in the year in which he attains the age of sixteen years. R.S.O. 1970, c. 424, s. 6 (1).

When attendance excused

(2) A child is excused from attendance at school if,

(*a*) he is receiving satisfactory instruction at home or elsewhere;

(*b*) he is unable to attend school by reason of sickness or other unavoidable cause;

(*c*) transportation is not provided by a board for the child and there is no school that he has a right to attend situated,

(i) within one mile from his residence measured by the nearest road if he has not attained the age of seven years on or before the first school day in September in the year in question, or

(ii) within two miles from his residence measured by the nearest road if he has attained the age of seven years but not the age of ten years on or before the first school day in September in the year in question, or

(iii) within three miles from his residence measured by the nearest road if he has attained the age of ten years on or before the first school day in September in the year in question;

(*d*) he has obtained a secondary school graduation diploma or has completed a course that gives him equivalent standing;

(*e*) he is absent from school for the purpose of receiving instruction in music and the period of absence does not exceed one-half day in any week;

(*f*) he is suspended, expelled or excluded from attendance at school under any Act or under the regulations;

(*g*) he is absent on a day regarded as a holy day by the church or religious denomination to which he belongs; or

(*h*) he is absent or excused as authorized under this Act and the regulations. R.S.O. 1970, c. 424, s. 6 (2); 1972, c. 77, s. 3.

Blind, deaf or mentally handicapped children

(3) The fact that a child is blind, deaf or mentally handicapped is not of itself an unavoidable cause under clause *b* of subsection 2 if the child is eligible for admission to the Ontario School for the Blind, an Ontario School for the Deaf or a school or class for trainable retarded children.

Child under compulsory age

(4) Where a child under compulsory school age has been enrolled as a pupil in an elementary school, this section applies during the period for which the child is enrolled as if he were of compulsory school age.

Duty of parent, etc.

(5) The parent or guardian of a child who is required to attend school under this section shall cause the child to attend school as required by this section.

Separate school supporters

(6) Nothing in this section requires the child of a Roman Catholic separate school supporter to attend a public school or a Protestant separate school, or requires the child of a public school supporter to attend a Roman Catholic separate school. R.S.O. 1970, c. 424, s. 6 (3-6), *amended*.

Where school year varied

21. Where a school year approved by the Minister does not commence on the day following Labour Day, references to the first school day in September and the last school day in June in section 20 shall be read as the first school day in the school year and the last school day in the school year respectively for the purpose of compulsory attendance of pupils of the school or schools or parts thereof to which the school year applies. 1973, c. 92, s. 5.

Suspension of pupil

22.—(1) A principal may suspend a pupil for a fixed period, not in excess of a period determined by the board, because of persistent truancy, persistent opposition to authority, habitual neglect of duty, the wilful destruction of school property, the use of profane or improper language, or conduct injurious to the moral tone of the school or to the physical or mental wellbeing of others in the school and, where a pupil has been suspended, the principal shall notify forthwith in writing the pupil, his teachers, the parent or guardian of the pupil, the board, the appropriate school attendance counsellor and the appropriate supervisory officer of the suspension, the reasons therefor and the right of appeal under subsection 2.

Appeal against suspension

(2) The parent or guardian of a pupil who has been suspended or the pupil, where he is an adult, may, within seven days of the commencement of the suspension, appeal to the board against the suspension and the board, after hearing the appeal or where no appeal is made, may remove, confirm or modify the suspension and, where the board considers it appropriate, may order that any record of the suspension be expunged. R.S.O. 1970, c. 424, s. 21 (2) (*l*), *amended*.

Expulsion of pupil

(3) A board may expel a pupil from its schools on the ground that his conduct is so refractory that his presence is injurious to other pupils where,

(*a*) the principal and the appropriate supervisory officer so recommend;

(*b*) the pupil and his parent or guardian have been notified in writing of,

(i) the recommendation of the principal and the supervisory officer, and

(ii) the right of the pupil where he is an adult and otherwise of his parent or guardian to make representations at a hearing to be conducted by the board;

(*c*) the teacher or teachers of the pupil have been notified; and

(*d*) such hearing has been conducted. R.S.O. 1970, c. 424, s. 34, par. 24; 1971, c. 90, s. 5 (3), *amended*.

Parties to hearing

(4) The parties to a hearing under this section shall be the parent or guardian of the pupil or the pupil, where he is an adult, the principal of the school that the pupil attends and, in the case of an expulsion, the appropriate supervisory officer.

Readmission of pupil

(5) A board may at its discretion readmit to school a pupil who has been expelled. *New*.

Provincial School Attendance Counsellor

23.—(1) The Lieutenant Governor in Council may appoint an officer, to be known as the Provincial School Attendance Counsellor, who shall, under the direction of the Minister, superintend and direct the enforcement of compulsory school attendance. R.S.O. 1970, c. 424, s. 7 (1).

Inquiry by Provincial Counsellor

(2) Where the parent or guardian of a child considers that the child is excused from attendance at school under subsection 2 of section 20, and the appropriate school attendance counsellor or the Provincial School Attendance Counsellor is of the opinion that the child should not be excused from

attendance, the Provincial School Attendance Counsellor shall direct that an inquiry be made as to the validity of the reason or excuse for non-attendance and the other relevant circumstances, and for such purpose shall appoint one or more persons who are not employees of the board that operates the school that the child has the right to attend to conduct a hearing and to report to him the result of the inquiry and may, by order in writing signed by him, direct that the child,

(*a*) be excused from attendance at school; or

(*b*) attend school,

and a copy of the order shall be delivered to the board and to the parent or guardian of the child. 1972, c. 77, s. 4.

Powers of Provincial Counsellor

(3) The Provincial School Attendance Counsellor has all the powers of a school attendance counsellor and may exercise such powers anywhere in Ontario. R.S.O. 1970, c. 424, s. 7 (4).

Appointment of school attendance counsellors

24.—(1) Every board shall appoint one or more school attendance counsellors.

Idem

(2) Two or more boards may appoint the same school attendance counsellor or counsellors.

Vacancies

(3) Where the office of a school attendance counsellor becomes vacant, it shall be filled forthwith by the board.

Notice of appointment

(4) Notice of the appointment of a school attendance counsellor shall be given in writing by the board to the Provincial School Attendance Counsellor and to the supervisory officers concerned. R.S.O. 1970, c. 424, s. 8.

Jurisdiction and responsibility of school attendance counsellor

(5) A school attendance counsellor appointed by a board has jurisdiction and is responsible for the enforcement of compulsory school attendance in respect of every child who is required to attend school and who,

(*a*) is qualified to be a resident pupil of the board; or

(*b*) is or has been enrolled during the current school year in a school operated by the board, except a child who is under the jurisdiction of a person appointed under section 119 of the *Indian Act* (Canada). R.S.O. 1970, c. 424, s. 9, *amended*.

R.S.C. 1970, c. I-6

Powers of counsellors

25.—(1) Where a school attendance counsellor has reasonable and probable grounds for believing that a child is illegally absent from school, he may, at the written request of the parent or guardian of the child or of the principal of the

school that the child is required to attend, take the child to his parent or guardian or to the school from which he is absent provided that, if exception is taken to his entering a dwelling place, he shall not enter therein without a warrant. 1972, c. 77, s. 5 (1).

Reports

(2) A school attendance counsellor shall report to the board that appointed him as required by the board. R.S.O. 1970, c. 424, s. 10 (2); 1972, c. 77, s. 5 (2).

To act under appropriate supervisory officer and provincial counsellor

(3) A school attendance counsellor is responsible to the appropriate supervisory officer, and shall carry out the instructions and directions of the Provincial School Attendance Counsellor. R.S.O. 1970, c. 424, s. 10 (3).

Inquiry by counsellor and notice

(4) A school attendance counsellor shall inquire into every case of failure to attend school within his knowledge or when requested so to do by the appropriate supervisory officer or the principal of a school or a ratepayer, and shall give written warning of the consequences of such failure to the parent or guardian of a child who is not attending school as required, and shall also give written notice to the parent or guardian to cause the child to attend school forthwith, and shall advise the parent or guardian in writing of the provisions of subsection 2 of section 23. R.S.O. 1970, c. 424, s. 10 (4); 1972, c. 77, s. 5 (3).

Census

26. A board may make or obtain a complete census of all persons in the area in which the board has jurisdiction who have not attained the age of twenty-one years. R.S.O. 1970, c. 424, s. 11; 1972, c. 77, s. 6.

Reports and information

27.—(1) The principal of every elementary and secondary school shall,

(*a*) report to the appropriate school attendance counsellor and supervisory officer the names, ages and residences of all pupils of compulsory school age who have not attended school as required;

(*b*) furnish the school attendance counsellor with such other information as the counsellor requires for the enforcement of compulsory school attendance; and

(*c*) report in writing to the school attendance counsellor every case of expulsion and readmission of a pupil. R.S.O. 1970, c. 424, s. 12 (1); 1973, c. 92, s. 6.

Where no school attendance counsellor

(2) Where a child of compulsory school age has not attended school as required and there is no school attendance counsellor having jurisdiction in respect of the child, the appropriate

supervisory officer shall notify the parent or guardian of the child of the requirements of section 20. R.S.O. 1970, c. 424, s. 12 (2).

Provincial counsellor as trustee

28. Where it appears to the Minister that the board of a district school area is not providing accommodation or instruction for its resident pupils either in schools operated by the board or under an agreement with another board in schools operated by such other board, has neglected or failed to raise the necessary funds for the provision of such accommodation and instruction or has in other respects failed to comply with this Act and the regulations, or that the election of members of the board has been neglected and no regular board is in existence, the Minister may authorize and direct the Provincial School Attendance Counsellor to do all things and exercise all powers that may be necessary for the provision and maintenance of accommodation and instruction for the resident pupils of the board including the erection of school buildings and the conduct of schools and for the levying of all sums of money required for the purposes of the board, and generally whatever may be required for the purpose of establishing, maintaining and conducting schools in accordance with this Act and the regulations, and thereupon the Provincial School Attendance Counsellor has, for such period as authorized by the Minister, all the authority and powers vested in, and may, during such period, perform the duties of, the board. R.S.O. 1970, c. 424, s. 13, *amended*.

Liability of parent or guardian

29.—(1) A parent or guardian of a child of compulsory school age who neglects or refuses to cause the child to attend school is, unless the child is legally excused from attendance, guilty of an offence and on summary conviction is liable to a fine of not more than $100.

Bond for attendance

(2) The provincial judge may, instead of imposing a fine, require a person convicted of an offence under subsection 1 to submit to the Treasurer of Ontario a personal bond, in a form prescribed by the provincial judge, in the penal sum of $200 with one or more sureties as required, conditioned that the person shall cause the child to attend school as required by this Part, and upon breach of the condition the bond is forfeit to the Crown. R.S.O. 1970, c. 424, s. 14 (1, 2), *amended*.

Employment during school hours

(3) A person who employs during school hours a child who is required to attend school under section 20 is guilty of an offence and on summary conviction is liable to a fine of not more than $100. R.S.O. 1970, c. 424, s. 14 (3); 1972, c. 77, s. 7 (1), *amended*.

Offences by corporations

(4) Subsections 1 and 3 apply, *mutatis mutandis*, to a corporation and, in addition, every director and officer of the corporation who authorizes, permits or acquiesces in the

contravention is guilty of an offence and on summary conviction is liable to the same penalty as the corporation. R.S.O. 1970, c. 424, s. 14 (4).

Habitually absent from school

(5) A child who is required by law to attend school and who refuses to attend or who is habitually absent from school is guilty of an offence and on summary conviction is liable to the penalties provided for children adjudged to be juvenile delinquents under the *Juvenile Delinquents Act* (Canada), and the child and his parent or guardian may be summoned to appear before a provincial judge in the Provincial Court (Family Division), and the provincial judge has the same powers to deal with such child and his parent or guardian, including the imposition and payment of fines, as he has with respect to a juvenile delinquent and his parent or guardian under the *Juvenile Delinquents Act* (Canada), and subsection 2 of section 231 applies in any proceeding under this section. R.S.O. 1970, c. 424, s. 14 (5); 1972, c. 77, s. 7 (2), *amended*.

R.S.C. 1970, c. J-3

Proceedings under subs. 5

(6) Proceedings in respect of offences under subsection 5 shall be proceeded with only in accordance with such subsection. R.S.O. 1970, c. 424, s. 14 (6).

Reference to provincial counsellor for inquiry

(7) Where, in proceedings under this section, it appears to a provincial judge that the child may have been excused from attendance at school under subsection 2 of section 20, the provincial judge may refer the matter to the Provincial School Attendance Counsellor who shall direct that an inquiry shall be made as provided in subsection 2 of section 23 which subsection shall apply *mutatis mutandis* except that the Provincial School Attendance Counsellor shall, in lieu of making an order, submit a report to the provincial judge. 1972, c. 77, s. 7 (3).

Proceedings to be taken by attendance counsellors

30.—(1) Prosecutions under section 29 shall be instituted by the school attendance counsellor concerned and prosecutions under subsection 1 of section 29 shall be instituted in the Provincial Court (Family Division).

Certificate of principal as evidence

(2) In prosecutions under section 29, a certificate as to the attendance or non-attendance at school of any child, signed or purporting to be signed by the principal of the school, is *prima facie* evidence of the facts stated therein without any proof of the signature or appointment of the principal.

Proof of age

(3) Where a person is charged under section 29 in respect of a child who is alleged to be of compulsory school age and the child appears to the provincial judge to be of compulsory school age, the child shall, for the purposes of such prosecution, be deemed to be of compulsory school age unless the contrary is proved. R.S.O. 1970, c. 424, s. 15.

(4) An order made under subsection 2 of section 23 shall be admitted in evidence in a prosecution only where the prosecution is in respect of the school year for which the order was made. 1972, c. 77, s. 8.

Order re school attendance

31.—(1) A person has the right, without payment of a fee, to attend a school in a school section, separate school zone or secondary school district, as the case may be, in which he is qualified to be a resident pupil. R.S.O. 1970, c. 425, s. 62 (1), *amended*.

Resident pupil right to attend school

(2) Notwithstanding the other provisions of this Part, where it appears to a board that a person who resides in the area of jurisdiction of the board is denied the right to attend school without the payment of a fee, the board, at its discretion, may admit the person from year to year without the payment of a fee. R.S.O. 1970, c. 385, s. 5 (14); R.S.O. 1970, c. 425, s. 62 (5), *amended*.

Admission without fee

32.—(1) Subject to sections 34, 35 and 42, a person who attains the age of six years in any year is, after the 1st day of September in such year, qualified to be a resident pupil in respect of a school section until the last school day in June in the year in which he attains the age of twenty-one years, if,

Resident pupil public school qualification

(*a*) he resides in the school section in which his parent or guardian who is not a separate school supporter resides; or

(*b*) he or his parent or guardian is assessed for public school purposes in the school section,

(i) as an owner, or

(ii) for business assessment, or

(iii) as an owner and for business assessment,

for an amount that, when adjusted by the latest assessment equalization factor applicable thereto that is provided by the Minister, is not less than the quotient obtained by dividing the total equalized assessment, for the year next preceding, of property rateable for public school purposes in that school section, by the average daily enrolment of pupils resident in that school section in such year. R.S.O. 1970, c. 385, s. 4 (1); 1971, c. 69, s. 1 (3); 1973, c. 37, s. 2, *amended*.

(2) Subject to sections 34, 35 and 42, a person who attains the age of six years in any year is, after the 1st day of September in such year, qualified to be a resident pupil in respect of a separate school zone until the last school day in June in the year in which he attains the age of twenty-one years, if,

Resident pupil separate school qualification

(*a*) he resides in the separate school zone in which his parent or guardian who is a separate school supporter resides; or

(*b*) he or his parent or guardian is assessed for separate school purposes in the zone,

(i) as an owner, or

(ii) for business assessment, or

(iii) as an owner and for business assessment,

for an amount that, when adjusted by the latest assessment equalization factor applicable thereto that is provided by the Minister, is not less than the quotient obtained by dividing the total equalized assessment, for the year next preceding, of property rateable for separate school purposes in that zone, by the average daily enrolment of pupils resident in that zone in such year. R.S.O. 1970, c. 430, s. 25 (1), *part*; 1971, c. 70, s. 1 (3); 1972, c. 137, s. 1, *amended*.

Evidence as to right to attend

(3) It is the responsibility of the parent or guardian to submit evidence that the child has a right to attend an elementary school, including proof of age. R.S.O. 1970, c. 385, s. 4 (3); R.S.O. 1970, c. 430, s. 25 (3).

Resident pupil, elementary

(4) A person who is qualified to be a resident pupil in respect of a school section or a separate school zone is a resident pupil if he enrols in a school operated by the board of the school section or separate school zone, as the case may be, or in a school operated by another board to which the board of such school section or separate school zone pays fees on his behalf. *New*.

Kindergarten

33.—(1) Where a board operates a kindergarten in a school, a child who is otherwise qualified and resides within the attendance area of that school may become a resident pupil at an age one year lower than that referred to in section 32.

Junior kindergarten

(2) Where a board operates a junior kindergarten in a school, a child who is otherwise qualified and resides within the attendance area of that school may become a resident pupil at an age two years lower than that referred to in section 32. R.S.O. 1970, c. 385, s. 4 (4, 5); R.S.O. 1970, c. 430, s. 25 (4, 5).

Beginners class

(3) A board may provide a class or classes for children to enter school for the first time on or after the first school day in January and, where the board so provides, a child whose birthday is on or after the 1st day of January and before the 1st day of July, who resides in an area determined by the board and who is eligible to be admitted to an elementary

school or kindergarten, as the case may be, on the first school day in the following September, may become a resident pupil in respect of such class. 1973, c. 37, s. 1, *amended*.

When person not resident pupil

34.—(1) A person is not qualified to be a resident pupil in respect of an elementary school if he is unable by reason of mental or physical handicap to profit by instruction in an elementary school. R.S.O. 1970, c. 385, s. 4 (1) (*b*); R.S.O. 1970, c. 430, s. 25 (1), *part*.

Inability to profit by instruction

(2) The inability of a pupil to profit by instruction in an elementary school because of a mental or physical handicap shall be determined by a committee established by the board in accordance with this section. R.S.O. 1970, c. 385, s. 4 (2); R.S.O. 1970, c. 430, s. 25 (2), *amended*.

Idem

(3) Where the principal of an elementary school considers that a pupil who attends his school is unable by reason of a mental or physical handicap to profit by instruction in an elementary school, or where the parents or guardian of a pupil consider that the pupil is unable to profit by instruction by reason of a mental or physical handicap, the principal shall refer the matter to the appropriate supervisory officer who shall refer the matter to the board, and the board shall appoint a committee of three persons consisting of a supervisory officer and a principal, neither of whom is the supervisory officer or principal to whom the matter has been previously referred, and,

(*a*) a legally qualified medical practitioner where the pupil allegedly has a physical handicap; or

(*b*) a legally qualified psychiatrist where the pupil allegedly has a mental handicap or a multiple handicap involving both mental and physical defect.

Inquiry by committee

(4) The committee referred to in subsection 3 shall inquire into the alleged inability of the pupil to profit by instruction and the mental or physical condition of the pupil, determine whether the pupil can profit by instruction and make a written report to the board of its determination and, for the purposes of its inquiry, report and determination, the committee shall study all existing reports in respect of the pupil, hear the teachers, parents or guardian of the pupil and any other person who may be able to contribute information bearing upon the matter and may, with the consent of the parents or guardian of the pupil, obtain and consider in respect of the pupil,

(*a*) in the case of alleged mental handicap, a report of an intellectual assessment conducted by a person considered by the committee to be competent for the purpose; and

(*b*) in the case of alleged physical handicap, a report of a medical examination conducted by a legally qualified medical practitioner,

and any costs incurred in respect of such assessment or examination, or in respect of the obtaining of other evidence required by the committee, shall be paid by the board.

Review

(5) Where the parent or guardian of a person determined under this section to be unable to profit by instruction in an elementary school,

(*a*) believes that by reason of improvement in the mental or physical condition of the person or other cause the person has become able to profit by such instruction; and

(*b*) furnishes to a supervisory officer of the board in whose jurisdiction the person resides evidence or information to establish his belief,

the board shall appoint a committee constituted in accordance with subsection *3* which shall review the determination previously made under this section and confirm or alter such determination, and for such purpose the committee has the powers and duties of a committee under subsection 4, which subsection applies *mutatis mutandis*.

Notification of Minister re exclusion

(6) Where a person is excluded from an elementary school under this section, the board shall forthwith notify the Minister. *New*.

Admission where pupil moves into residence not assessed in accordance with his school support

35. Where a child who would otherwise have the right to attend school in a school section or separate school zone moves with his parent or guardian,

(*a*) who is not a separate school supporter, into a residence that is assessed to the support of separate schools; or

(*b*) who is a separate school supporter, into a residence that is assessed to the support of public schools,

and the latest date upon which the assessment of the residence may be changed from,

(*c*) separate to public school support; or

(*d*) public to separate school support,

has passed, upon the filing of a notice of change of support for the following year with the clerk of the municipality, the child shall be admitted, without the payment of a fee, to a public or separate school, as the case may be, that will be supported by the assessment of the residence on the effective date of the change of school support. R.S.O. 1970, c. 385, s. 5 (2); R.S.O. 1970, c. 430, s. 25 (11), *amended*.

36. Where a resident pupil of a school section or separate school zone resides,

Resident pupil's right to attend more accessible school in adjoining school section or separate school zone

(*a*) more than two miles by the shortest distance by road from the school that the pupil is required to attend; or

(*b*) more than one-half mile by the shortest distance by road from any point from which transportation is provided to the school that the pupil is required to attend; and

(*c*) nearer by the shortest distance by road to another public school in another school section in the case of a public school pupil, or to another separate school in another separate school zone in the case of a separate school pupil, than to the school that the pupil is required to attend,

the pupil shall be admitted to the nearer public school or the nearer separate school, as the case may be, referred to in clause *c*, where the appropriate supervisory officer for the school section or separate school zone, as the case may be, in which such school is situate, certifies that there is sufficient accommodation for the pupil in such school, and where the pupil is admitted to such school, the board of the school section or separate school zone of which he is a resident pupil shall pay in respect of the pupil a fee calculated in accordance with the regulations. R.S.O. 1970, c. 385, s. 5 (4); R.S.O. 1970, c. 430, s. 25 (14), *amended.*

37.—(1) A person is qualified to be a resident pupil in respect of a secondary school district if,

Resident pupil secondary school qualification

(*a*) he and his parent or guardian reside in the secondary school district; or

(*b*) he or his parent or guardian is assessed in the secondary school district,

(i) as an owner, or

(ii) for business assessment, or

(iii) as an owner and for business assessment,

for an amount that, when adjusted by the latest assessment equalization factor applicable thereto that is provided by the Minister, is not less than the quotient obtained by dividing the total equalized assessment, for the year next preceding, of property rateable for secondary school purposes in that second-

ary school district, by three times the average daily enrolment of pupils resident in that secondary school district in such year; or

(*c*) he resides in the secondary school district and is the owner or tenant of property therein that is separately assessed; or

(*d*) he is over eighteen years of age and has resided in the secondary school district for the twelve months immediately before his admission to a secondary school in the secondary school district or to a secondary school operated by another secondary school board to which the board of such secondary school district pays fees on his behalf. R.S.O. 1970, c. 425, s. 1, *part*; 1971, c. 68, s. 1; 1972, c. 75, s. 1, *amended*.

Resident pupil, secondary

(2) A person who is qualified to be a resident pupil in respect of a secondary school district is a resident pupil if he enrols in a secondary school operated by the board of the secondary school district or in a secondary school operated by another secondary school board to which the board of such secondary school district pays fees on his behalf. *New*.

Trainable retarded child

(3) Subsections 1 and 2 apply *mutatis mutandis* to a trainable retarded child in respect of a school division.

Metropolitan Area R.S.O. 1970, c. 295

(4) In subsection 3, school division includes the Metropolitan Area as defined in *The Municipality of Metropolitan Toronto Act*. *New*.

Admission of adult resident who is not a resident pupil

(5) Notwithstanding any general or special Act, a person who resides in a secondary school district and who, except as to residence, is qualified to be a resident pupil in another secondary school district shall be admitted, without the payment of a fee, to a secondary school operated by the board of the secondary school district in which he resides if,

(*a*) the person has attained the age of eighteen years and has been promoted or transferred to a secondary school; and

(*b*) the appropriate supervisory officer certifies that there is adequate accommodation in the secondary school. 1972, c. 75, s. 17.

Limitation on right to attend without payment of fee

(6) Notwithstanding section 31, where a pupil,

(*a*) has completed elementary school; and

(*b*) has attended one or more secondary schools for a total of seven or more years,

the board of the secondary school that he attends may charge a fee calculated in accordance with the regulations. R.S.O. 1970, c. 425, s. 63 (5), *amended*.

38.—(1) Subject to subsections 2 and 3, a resident pupil of a secondary school district has the right to attend any secondary school, Resident pupil

(*a*) that is more accessible to the pupil than any secondary school in the secondary school district of which he is a resident pupil;

(*b*) to take, for the purpose of obtaining the secondary school honour graduation diploma, a subject or subjects not available in the secondary school district of which he is a resident pupil but required by the pupil for admission to any university or teacher-training course or for entry into any trade, profession or calling;

(*c*) to take a program of study that includes the subject of French for French-speaking pupils in the intermediate or senior division and that is not available in the secondary school district of which he is a resident pupil, where such program of study is required by the pupil for admission to any university or teacher-training course or for entry into any trade, profession or calling; or

(*d*) to take a program in a French-language school or class if a French-language school or class is not provided by the board of the secondary school district of which he is a resident pupil. R.S.O. 1970, c. 425, s. 62 (2); 1972, c. 75, s. 16 (1).

(2) Subsection 1 applies to a resident pupil of a secondary school district only if the appropriate supervisory officer certifies that there is adequate accommodation for the pupil in the school. R.S.O. 1970, c. 425, s. 62 (4). Restrictions

(3) Clauses *b*, *c* and *d* of subsection 1 do not apply to a resident pupil of a secondary school district if the board of the secondary school district has entered into an agreement with another secondary school board under section 160 and the programs and subjects referred to in such clauses are offered in the schools covered by the agreement. R.S.O. 1970, c. 425, s. 62 (6); 1972, c. 75, s. 16 (2). Where agreement between boards

39.—(1) A person who is qualified to be a resident pupil of a secondary school district and who applies for admission to a secondary school situated in another secondary school district shall furnish the principal of the school to which admission is sought with a statement Admission of resident pupil from other district

signed by his parent or guardian or by the pupil where the pupil is an adult, stating,

(*a*) the name of the secondary school district in respect of which he is qualified to be a resident pupil;

(*b*) whether or not the pupil or his parent or guardian is assessed in the secondary school district in which the school is situated, and if so assessed the amount of such assessment; and

(*c*) the authority, under this Act, under which the pupil claims to have a right to attend the school. R.S.O. 1970, c. 425, s. 65 (1); 1972, c. 75, s. 18, *amended*.

Notice of admission

(2) The principal of the school shall forward the statement to the chief executive officer of the board that operates the school and, if the pupil is admitted, the chief executive officer of the board shall forthwith notify the chief executive officer of the board of the secondary school district of which the pupil is qualified to be a resident pupil of the fact of the admission and of the information included in the statement. R.S.O. 1970, c. 425, s. 65 (2), *amended*.

Admission to secondary school

40.—(1) Where a pupil has been promoted from elementary school, he shall be admitted to secondary school.

Idem

(2) A person who has not been promoted from elementary school shall be admitted to a secondary school if the principal of the secondary school has satisfied himself that the applicant is competent to undertake the work of the school. R.S.O. 1970, c. 425, s. 61 (1, 2), *amended*.

Where admission denied

(3) Where an applicant for admission to a secondary school under subsection 2 is denied admission by the principal, the applicant may appeal to the board and the board may, after a hearing, direct that the applicant be admitted or refused admission to a secondary school.

Alternative course or program

(4) Where the pupil has clearly demonstrated to the principal that he is not competent to undertake a particular course or program of studies, the principal shall not permit him to undertake such course or program, in which case the pupil may take a prerequisite course, or select with the approval of the principal an appropriate alternative course or program provided that, where the pupil is a minor, the consent of his parent or guardian has been obtained.

(5) A person is entitled to enrol in a course of study in an evening class if, in the opinion of the principal after due examination or other investigation, he is considered competent to undertake the desired course, but his admission to such course does not entitle him to be admitted to a day course. R.S.O. 1970, c. 425, s. 61 (3, 4, 5), *amended*. Admission to evening classes

41. Where, for any reason, one parent of a person is the sole support of the person, and that parent, Admission where one parent is sole support

(*a*) resides in Ontario;

(*b*) is not assessed for school purposes in Ontario; and

(*c*) boards the person in a residence that is not a children's boarding home as defined in *The Children's Boarding Homes Act*, R.S.O. 1970, c. 65

the person shall, if otherwise qualified to be a resident pupil, be deemed to be a resident pupil in respect of,

(*d*) a school section, if such residence is situate in the school section and is assessed to the support of public schools; or

(*e*) a separate school zone, if the person is a Roman Catholic and such residence is situate in the separate school zone and is assessed to the support of separate schools; or

(*f*) a secondary school district, if such residence is situate in the secondary school district and is assessed to the support of secondary schools. R.S.O. 1970, c. 385, s. 5 (6); R.S.O. 1970, c. 425, ss. 64 (4), 77 (3); R.S.O. 1970, c. 430, s. 25 (10), *amended*.

42.—(1) A person who resides in a school section, separate school zone or secondary school district in which his parent or guardian resides, on land that is exempt from taxation for school purposes, is not qualified to be a resident pupil of the school section, separate school zone or secondary school district, unless the person or his parent or guardian is assessed and pays taxes for school purposes in such school section, separate school zone or secondary school district. Tax exempt land

(2) A person who is otherwise qualified to attend an elementary or secondary school and who resides on land that is exempt from taxation for school purposes shall be admitted Resident on land exempt from taxation

to a school that is accessible to him where the appropriate supervisory officer has certified that there is sufficient accommodation for the person in the school for the current year, and fees calculated in accordance with the regulations shall, except where the regulations provide otherwise in respect of such fees, be prepaid monthly by the person or by his parent or guardian. R.S.O. 1970, c. 425, s. 1, *part*; R.S.O. 1970, c. 430, s. 25 (16); 1971, c. 69, s. 1 (3), *part, amended*.

Admission of ward, etc., of children's aid society to an elementary school

43.—(1) A child who is a ward of a children's aid society or in the care of a children's aid society, and who is otherwise qualified to be admitted to an elementary school, shall be admitted without the payment of a fee to an elementary school operated by the board of the school section or separate school zone, as the case may be, in which the child resides. 1971, c. 69, s. 1 (1); 1971, c. 70, s. 1 (1), *amended*.

Admission of ward, etc., of children's aid society to a secondary school

(2) A child who is a ward of a children's aid society or in the care of a children's aid society, and who is otherwise qualified to be admitted to a secondary school, shall be admitted without the payment of a fee to a secondary school operated by the board of the secondary school district in which the child resides. 1971, c. 68, ss. 6 (1), 7 (1).

Where fee payable

44. Where a child who is in the custody of a corporation, society or person, has not the right under the other provisions of this Part to attend the school that the corporation, society or person elects that he attend, and the appropriate supervisory officer certifies that there is sufficient accommodation in such school for the current school year, the board that operates such school shall, where the child is otherwise qualified to attend such school, admit the child to the school upon the prepayment monthly by the corporation, society or person of a fee calculated in accordance with the regulations. R.S.O. 1970, c. 385, s. 5 (9); R.S.O. 1970, c. 425, s. 64 (3); R.S.O. 1970, c. 430, s. 25 (9), *amended*.

Right of certain pupils to attend school in another jurisdiction

45.—(1) Where, on the 31st day of December, 1968, a pupil was enrolled in a public, separate or secondary school that he had a right to attend, and the school on and after the 1st day of January, 1969, is situated in a school division or a combined separate school zone, as the case may be, other than the school division or the combined separate school zone in which the pupil resides, the pupil has, in addition to any other right that he may have under this Act, subject to subsection 5 of section 37, the right to attend the school until he completes his education in the school.

(2) Where any part of a school section, separate school zone or secondary school district, after the 1st day of January, 1969, forms part of a school division or a county or district combined separate school zone, as the case may be, other than the school division or county or district combined separate school zone in which the school that the pupils resident in such part had the right to attend on the 31st day of December, 1968, is situate, all pupils who reside in such part after the 1st day of January, 1969, may attend such school until the divisional boards concerned, or the county or district combined separate school boards concerned, as the case may be, agree to other arrangements for the accommodation of such pupils. R.S.O. 1970, c. 425, s. 43 (1, 2); R.S.O. 1970, c. 430, s. 92 (1, 2). Idem

(3) Where, on the 31st day of December, 1973, a pupil is enrolled in a public or secondary school that he has a right to attend and the school, on and after the 1st day of January, 1974, is situated in a school division other than the school division in which the pupil resides, the pupil has, in addition to any right that he may have under this Act, subject to subsection 5 of section 37, the right to attend the school until he completes his education in the school, and the divisional boards concerned may enter into an agreement in respect of the transportation to and from school of such pupils. 1973, c. 91, s. 4 (1). Idem

(4) Where, on the 31st day of December, 1973, a pupil is enrolled in a separate school that he has a right to attend and the school, on and after the 1st day of January, 1974, is situated in the area of jurisdiction of a separate school board other than the separate school board that has jurisdiction in the area in which the pupil resides, the pupil has, in addition to any other right that he may have under this Act, the right to attend the school until he completes his education in the school, and the separate school boards concerned may enter into an agreement in respect of the transportation to and from school of such pupils. 1973, c. 117, s. 4 (1). Idem

(5) This section does not extend the right acquired by a pupil to attend a school under an order of the Ontario Municipal Board or under an agreement between two or more boards or between a board and the Crown in right of Canada. R.S.O. 1970, c. 425, s. 43 (3); R.S.O. 1970, c. 430, s. 92 (3). Application

46.—(1) Where a resident pupil of a secondary school district attends a secondary school that he has a right to attend under subsection 1 of section 38, the board of the Fees payable

secondary school district of which he is a resident pupil shall pay to the board that operates the secondary school attended by the pupil a fee calculated in accordance with the regulations. R.S.O. 1970, c. 425, s. 63 (2), *amended*.

Idem

(2) Where a resident pupil of a school division attends a public or secondary school in another school division under section 45, the divisional board of which he is a resident pupil shall pay to the divisional board that operates the school attended by the pupil a fee calculated in accordance with the regulations. R.S.O. 1970, c. 385, s. 5 (15), *amended*.

Idem

(3) Where a separate school pupil resident in a county or district combined separate school zone attends a separate school in another combined separate school zone under section 45, the board of the combined separate school zone in which he resides shall pay to the combined separate school board that operates the separate school attended by the pupil a fee calculated in accordance with the regulations. R.S.O. 1970, c. 430, s. 25 (17), *amended*.

Admission of resident pupil to another school by reason of distance to school

(4) A child who resides with his parent or guardian in a residence that is assessed to the support of public schools and who may be excused from attendance under clause *c* of subsection 2 of section 20 may be admitted to a public school in another school section if the appropriate supervisory officer certifies that there is sufficient accommodation for him, and the board of the section in which the child resides shall pay to the board of the other school section a fee calculated in accordance with the regulations. R.S.O. 1970, c. 385, s. 5 (3), *amended*.

Admission of non-resident pupils

(5) A board may admit to a school that it operates a person who, except as to residence, is qualified to attend such school, and may, at its discretion, require the payment by or on behalf of the person of a fee calculated in accordance with the regulations. R.S.O. 1970, c. 385, s. 5 (14); R.S.O. 1970, c. 425, s. 62 (5), *amended*.

PART III

PUBLIC AND SECONDARY SCHOOLS

Tax Exemption of Separate School Supporters

Exemption of supporters of separate schools

47. Nothing in this Act authorizing the levying or collecting of taxes on property rateable for public school purposes applies to the supporters of Roman Catholic separate schools or Protestant separate schools, except that the taxable prop-

erty in respect of which a person gives notice under section 116 or 135 or under section 23 of *The Assessment Act* is not exempt from taxation for public school purposes imposed before the person becomes a separate school supporter in respect of such property. R.S.O. 1970, c. 385, s. 2, *amended*. R.S.O. 1970, c. 32

Religious Instruction

48.—(1) Subject to the regulations, a pupil shall be allowed to receive such religious instruction as his parent or guardian desires or, where the pupil is an adult, as he desires. Religious instruction

(2) No pupil in a public school shall be required to read or study in or from a religious book, or to join in an exercise of devotion or religion, objected to by his parent or guardian, or by the pupil, where he is an adult. R.S.O. 1970, c. 385, s. 7, *amended*. Religious exercises

Visitors

49. A parent or guardian of a child attending a public or secondary school and a member of the board that operates the school may visit such school, and a member of the Assembly and a clergyman may visit a public and secondary school in his constituency or in the area where he has pastoral charge, as the case may be. R.S.O. 1970, c. 385, s. 8 (1), *amended*. Visitors

Divisional Boards

50.—(1) A school section or a secondary school district that is designated as such by the Minister on lands held by the Crown in right of Canada or Ontario or by an agency thereof, or on any lands that are exempt from taxation for school purposes, shall not be included in a school division. Application to schools on exempt land

(2) For divisional board purposes, the County of Essex includes Pelee Island. Essex county

(3) In respect of divisional boards of education, Territory without municipal organization deemed district municipality

(*a*) every school section in existence on the 31st day of December, 1968 that comprised only territory without municipal organization, except a school section established under section 67 or 68;

(*b*) any part of territory without municipal organization that on the 31st day of December, 1968 was part of a high school district but was not in a school section; and

(*c*) any part of territory without municipal organization that is designated by a regulation made under sub-

section 1 of section 52, or a predecessor thereof, as a district municipality or that is added to a school division without being so designated and that on the 31st day of December, 1968 was not in a school section or in a high school district,

shall be deemed to be a district municipality. R.S.O. 1970, c. 425, s. 27 (2-4), *amended*.

Powers and duties of divisional board re territory without municipal organization

51.—(1) Subject to subsection 2, the divisional board of a school division that includes territory without municipal organization that is deemed a district municipality shall, for public school purposes and for secondary school purposes, exercise the powers and duties of a municipal council for such district municipality with respect to preparing estimates, levying rates, collecting taxes and issuing debentures for the purposes of the divisional board, and with respect thereto and to the election of members of the divisional board all the officers appointed by the divisional board have the same powers and duties as similar officers in an organized municipality and the provisions of subsections 5 to 11 of section 65 apply *mutatis mutandis*, and the expenses incurred by the board in connection therewith except the issuing of debentures shall be apportioned to the property rateable for public school purposes and to the property rateable for secondary school purposes in such district municipality in the ratio that the assessment of such property rateable for public school purposes bears to the assessment of such property rateable for secondary school purposes, and shall be included in the levy imposed for school purposes on such property. R.S.O. 1970, c. 425, s. 27 (5); 1972, c. 136, s. 2, *amended*.

Parts of territory without municipal organization attached to municipality

(2) Except as provided in subsection 4, where any part of territory without municipal organization that is included in a school division is attached to a municipality for public school purposes or is deemed to be attached to a municipality for public and secondary school purposes, such part shall continue to be deemed to be attached to such municipality for the purposes of the divisional board, and the officers of such municipality shall collect all taxes and do all such other acts and perform all such duties and be subject to the same liabilities with respect to such part of territory without municipal organization that forms part of the school division as with respect to any part of the school division that is within the municipality, and the expenses incurred in connection therewith shall be apportioned to the property rateable for public school purposes and to the property rateable for secondary school purposes in such territory without municipal organization in the ratio that the assessment of such

property rateable for public school purposes bears to the assessment of such property rateable for secondary school purposes and shall be included in the levy imposed for school purposes on such property, but the divisional board may, by resolution passed before the 1st day of July in any year effective on the 1st day of January next following, a copy of which resolution shall be given forthwith to the Minister, the clerk of the municipality and the appropriate assessment commissioner, detach such territory from the municipality for school purposes and deem such territory to be a district municipality whereupon subsection 1 applies thereto. R.S.O. 1970, c. 425, s. 27 (7), *amended*.

Estimates to include expenses of collection, etc., and allowances to be made

(3) The divisional board in preparing estimates of the sums required to be raised under subsection 1 or 2 shall,

(*a*) make allowance for the abatement of and discount on taxes, for uncollectable taxes and for taxes that it is estimated will not be collected during the year in such part of the territory without municipal organization;

(*b*) include the proper proportion of the salaries and expenses of the officers involved, having regard to the time spent by such officers on their duties under subsection 1 or 2; and

(*c*) include the cost of providing elections of members of the board in such territory. R.S.O. 1970, c. 385, s. 40 (2), *amended*.

Where attached territory not included with municipality for election

(4) Where any part of territory without municipal organization is attached to a municipality for public school purposes, or is deemed to be attached to a municipality for public and secondary school purposes, and such part is included, pursuant to subsection 9 of section 57, with one or more municipalities in a combined area for the election of one or more members of the divisional board and the combined area does not include the municipality to which such part is so attached, such part shall be deemed to be attached for election purposes to the municipality that has the greatest residential and farm assessment in the combined area according to the last revised assessment roll as adjusted by the latest assessment equalization factor applicable thereto for each such municipality, provided by the Minister, and the provisions of subsection 2 apply *mutatis mutandis*. R.S.O. 1970, c. 425, s. 27 (8); 1972, c. 1, s. 63 (1); 1972, c. 75, s. 6 (3).

Elections in improvement districts

(5) The secretary-treasurer of an improvement district that forms all or part of a school division, in each year in which an election for members of the divisional board is to be held,

shall provide for such election in the improvement district in the same manner as for the election of members of a divisional board in a municipality and shall have all the powers and shall perform all the duties of the clerk and returning officer of a municipality in relation to the election of members of a divisional board under *The Municipal Elections Act, 1972*. R.S.O. 1970, c. 425, s. 27 (9); 1972, c. 75, s. 6 (4), *amended*.

1972, c. 95

School divisions, formation and alteration

52.—(1) The Lieutenant Governor in Council may, by regulation,

(*a*) designate as a school division all or part of one or more municipalities, localities, counties, regional municipalities, district municipalities or territory without municipal organization or a combination thereof;

(*b*) assign a name, subject to subsections 4, 5, 6 and 7, to the divisional board of a school division;

(*c*) dissolve a board of a school division or school section;

(*d*) combine two or more adjoining school divisions to form one school division and provide that the board of the combined school division shall be a divisional board of education;

(*e*) alter the boundaries of a school division and, where any part of territory without municipal organization is attached to a school division, designate such part as a district municipality or attach it to a district municipality.

Adjustment of assets and liabilities on formation

(2) Upon the formation of a new school division,

(*a*) all lands and premises that become part of a new school division, including the personal property therein or thereon and that, on the last school day immediately prior to such formation, were used as school sites and vested in the board of a school division or school section affected by such formation, become vested in the board of such new school division, and no compensation or damages are payable in respect of such lands, premises and personal property;

(*b*) all debts, contracts, agreements and liabilities for which a board or former board was liable in respect of that portion of its area of jurisdiction that becomes part of a new school division become obligations of the board of such new school division unless otherwise determined under clause *c*;

(*c*) the boards affected by such formation shall, in respect of the area that becomes part of a new school division, adjust in such manner as may be agreed upon by such boards, the assets and liabilities of such boards as of the date of such formation, except the property referred to in clause *a*, and, where the boards are unable to agree, any matter in disagreement shall be referred by a board affected to the Ontario Municipal Board, whose decision is final;

(*d*) the Minister may, by order, provide for the first election of the divisional board of a new school division, for a new election, subject to subsections 4 to 8 of section 54, of the divisional board or board of a school section of an altered school division or school section, for the right of pupils affected by such formation to continue to attend schools that they were attending immediately prior to the formation and for any matter not specifically provided for in this section that he considers necessary or advisable to carry out the intent and purposes of this Part.

Dissolution of board

(3) No regulation made under this section has the effect of dissolving a board unless so provided in the regulation.

Name of board; defined city

(4) Except where expressly provided in any other Act, the name of a divisional board that has jurisdiction in a defined city is "The Board of Education for the City of ....." (*inserting the name of the defined city*).

county

(5) The name of a divisional board that has jurisdiction in one county is "The..... County Board of Education" (*inserting the name of the county*).

regional municipality and counties

(6) Except where expressly provided in any other Act, the name of a divisional board that has jurisdiction in,

(*a*) all or part of a regional municipality;

(*b*) all or parts of two or more counties; or

(*c*) all or part of a regional municipality and all or part of one or more counties,

is "The..... Board of Education" (*inserting the name assigned by the regulations*).

territorial districts

(7) The name of a divisional board that has jurisdiction in the territorial districts is "The..... Board of Education" (*inserting the name assigned by the regulations*). R.S.O. 1970, c. 425, ss. 28, 29, *part, amended*.

Divisional boards establishment

53.—(1) A divisional board of education shall be established in each school division, and the members of the board shall be elected and the board organized in accordance with sections 50 to 57. R.S.O. 1970, c. 425, s. 29, *part*.

Deemed public school section and secondary school district

(2) For the purposes of every Act, a school division shall be deemed to be a school section and a secondary school district. R.S.O. 1970, c. 425, s. 28, *part*.

Powers and duties

(3) Every divisional board is a corporation and has all the powers and shall perform all the duties that by this or any other Act are conferred or imposed upon,

(*a*) a public school board for public school purposes; and

(*b*) a secondary school board for secondary school purposes. R.S.O. 1970, c. 425, s. 29, *part*.

Members to be trustees

(4) A member of a divisional board who is,

(*a*) elected by separate school electors; or

(*b*) appointed, in the case of a vacancy,

(i) by the remaining members elected to the divisional board by separate school electors, or

(ii) by a separate school board,

is a trustee for secondary school purposes only and shall not move, second or vote on a motion that affects public schools exclusively, and all other members of a divisional board are trustees for public and secondary school purposes. 1971, c. 68, s. 4, *amended*.

Trustees

(5) All members of a divisional board are trustees for the purposes of schools for trainable retarded children. R.S.O. 1970, c. 425, s. 72.

Alteration of boundaries: disposition of assets and liabilities

54.—(1) Where the boundaries of a school division are altered, except by reason of the formation of a new school division, all lands and premises that,

(*a*) are situate in an area that is added to a school section or secondary school district by such alteration;

(*b*) are used as school sites on the last school day preceding the effective date of such alteration; and

(*c*) immediately prior to the effective date of such alteration are vested in another board of education, public school board or secondary school board except a board appointed or formed under section 68,

shall, on and after such effective date, be vested without compensation, subject to all existing debts, contracts, agreements and liabilities that pertain to such lands and premises, in the board of the school section or secondary school district to which such area is added, and the boards concerned shall agree upon the disposition of all other property situate upon, or used in connection with, such lands and premises.

Dispute

(2) Any dispute as to the disposition of property under subsection 1 may be referred by one or more of the boards concerned to the Ontario Municipal Board, which shall determine the matters in dispute, and its decision is final.

Employment contracts

(3) The employment contract of every employee of a board who, immediately before the effective date of the alteration of the boundaries of a school division, was required to perform his duties in a school that is vested under subsection 1 in the board of a school division, school section or secondary school district becomes an obligation of the board in which the school is vested.

Representation of municipalities detached and added to another school division

(4) Subject to subsection 8, where one or more municipalities are detached from a school division and attached to an adjoining school division and a member of the board of the school division from which the municipality or municipalities are detached resides in one such municipality and was elected by public school electors to represent such municipality, whether or not the municipality was combined with one or more other municipalities for election purposes, such member shall, on the effective date of the attaching of the municipality or municipalities, cease to be a member of the board to which he was elected and shall on such date and for the remainder of his term of office be deemed,

(*a*) to have been elected by public school electors to the board of the school division to which the municipality in which he resides is attached; and

(*b*) to represent on such board the municipality in which he resides and the other municipality or municipalities, if any, that were combined therewith for election purposes under subsection 9 of section 57 at the time of his election and that are also attached to such school division,

and for such period the municipality or combined municipalities so attached shall be deemed to have been determined under subsection 9 of section 57 as a municipality or municipalities to be represented by one member to be elected by the public school electors.

Where board reduced by transfer of area

(5) Where one or more municipalities are detached from a school division and the number of members of the board of such school division elected by public school electors is reduced pursuant to subsection 4, for the remainder of the term of the board the number of members who remain on the board and who were elected by public school electors and the total number of members who remain on the board shall be deemed to be the number of members to be elected by public school electors under subsection 4 of section 57 and the total number of members determined under subsection 2 of section 57 respectively.

Representation of public school electors of municipality attached to school division

(6) Subject to subsection 8, where a municipality or part thereof is detached from a school division and attached to an adjoining school division, school section or secondary school district, on the effective date thereof and for the remainder of the term of office of the board of the enlarged school division, school section or secondary school district, the public school electors of such municipality or part shall be represented thereon by the member or members last elected thereto by the public school electors of the municipality, combination of municipalities or ward that adjoins the attached municipality or part and, where there are two or more such organized municipalities, combinations of municipalities or wards, the members of the board elected by public school electors shall, by resolution, determine which member or members shall represent the public school electors in the attached municipality or part for the remainder of the term of office of the board, but this subsection does not apply to the municipality or municipalities that will be represented by a member by virtue of subsection 4.

Representation of separate school supporters of municipality attached to school division

(7) Subject to subsection 8, where one or more municipalities or part or parts thereof are detached from a school division and attached to an adjoining school division or secondary school district, on the effective date thereof and for the remainder of the term of office of the board of the

enlarged school division or secondary school district, the separate school supporters in each such municipality or part shall be represented thereon by the member or members last elected thereto by the separate school electors in the area that adjoins such attached municipality and for which one or more members are elected to represent separate school supporters.

Where subss. 4, 6, 7 do not apply

(8) Subsections 4, 6 and 7 do not apply where a regular election of the board is to be held in the year preceding the effective date on which the municipality, municipalities or part or parts thereof are attached to the adjoining school division, school section or secondary school district, as the case may be. 1973, c. 91, s. 1.

Composition of board for defined city, members elected by public school electors

55.—(1) Where a school division comprises only a defined city, the members to be elected to the divisional board by public school electors shall, except where the method of election is that provided under subsection 1 or 2 of section 56, be elected by a general vote of such electors, in which case the number of members shall be determined by the population of the municipality as follows, where the population is,

(*a*) less than 10,000, six members;

(*b*) 10,000 or more but less than 50,000, eight members;

(*c*) 50,000 or more but less than 100,000, ten members;

(*d*) 100,000 or more, twelve members. R.S.O. 1970, c. 385, s. 16 (2); R.S.O. 1970, c. 425, s. 37 (1), *amended*.

Change in number of members

(2) Where it becomes evident from the population of a defined city that the number of members of the divisional board to be elected by public school electors should be increased or decreased, at the next election of trustees the proper number of members shall be elected. R.S.O. 1970, c. 385, s. 16 (3), *amended*.

Members elected by separate school electors

(3) In addition to the members elected by the public school electors under subsection 1 or section 56, the separate school electors in the defined city shall elect the number of members equal to the product, correct to the nearest integer, the fraction one-half being raised to the next higher integer, obtained by multiplying the number of members to be elected by the public school electors by the ratio of the residential and farm assessment of the property rateable for separate school purposes in the defined city to the residential and

farm assessment of the property rateable for public school purposes in the defined city, according to the latest revised collector's roll, but in no case shall the number of members to be elected under this subsection be fewer than two. R.S.O. 1970, c. 425, s. 37 (2), *amended*.

Clerk to make determination

(4) The clerk of the defined city shall make the determination under subsection 3 and shall send to the secretary of the divisional board, before the 1st day of September in the year of the election of the divisional board, a copy of the determination. 1972, c. 75, s. 10.

Election by separate school electors in defined city

(5) The members to be elected under subsection 3 shall be elected as provided in subsection 21 of section 57, which subsection applies *mutatis mutandis*. R.S.O. 1970, c. 425, s. 37 (3), *amended*.

Defined city divided into wards

56.—(1) The number of members to be elected by the public school electors of a defined city that is divided into wards may be two for each ward, elected by the electors of that ward. R.S.O. 1970, c. 385, s. 17 (1); 1972, c. 74, s. 4.

Where five or more wards

(2) Where a defined city is divided into five or more wards, the number of members to be elected by the public school electors may be one for each ward, elected by the electors of that ward. R.S.O. 1970, c. 385, s. 17 (2), *amended*.

Method of changing composition and election of board

(3) Subject to subsection 5, the number of members to be elected by the public school electors of a defined city that is divided into wards, and the method of their election, may be changed from the existing number and method to another number and method that is in accordance with section 55 or this section by resolution passed by majority vote of the members of the board who were elected by the public school electors, and upon notice thereof given by the chief executive officer of the board to the clerk of the defined city before the 1st day of July next preceding the election. R.S.O. 1970, c. 385, ss. 17 (3), 18 (1), *amended*.

Election of new board after change

(4) At the election next following the giving of the notice required under subsection 3, the proper number of members shall be elected. R.S.O. 1970, c. 385, s. 18 (3), *amended*.

Limitations on changing election

(5) A change in the method of election may not be made under this section unless the board has been elected by the existing method for at least the two preceding regular elections. R.S.O. 1970, c. 385, s. 18 (4), *amended*.

57.—(1) In this section, Interpretation

(*a*) "equalized residential and farm assessment" means the residential and farm assessment referred to in clause *b* as adjusted by the latest assessment equalization factor applicable thereto that is provided by the Minister;

(*b*) "residential and farm assessment" means the residential and farm assessment upon which taxes are levied in the year in which,

(i) a determination referred to in this section is made, or

(ii) nominations are held,

as the case may be;

(*c*) the Town of Newcastle in The Regional Municipality of Durham shall be deemed to be a city. R.S.O. 1970, c. 425, s. 38 (1); 1972, c. 75, s. 11 (1-3), *amended*.

(2) Subject to subsections 4, 5 and 6, the number of members on a divisional board, except a divisional board of a defined city, shall be determined by the total population of the municipalities, not including any territory without municipal organization that is deemed a district municipality, within the school division, as follows, where the population is, Composition of board for other than defined city

(*a*) less than 50,000, fourteen members;

(*b*) 50,000 or more but less than 100,000, sixteen members;

(*c*) 100,000 or more but less than 150,000, eighteen members;

(*d*) 150,000 or more, twenty members,

provided that where a school division in the territorial districts comprises fewer than four municipalities, not including any territory without municipal organization that is deemed a district municipality, where the population of such municipalities in the school division is,

(*e*) less than 3,500, five members;

(*f*) 3,500 or more but less than 5,000, eight members; and

(*g*) 5,000 or more but less than 10,000, ten members.

Change in number of members

(3) Where it becomes evident from the population of the municipalities in a school division that the number of members on a divisional board should be increased or decreased in accordance with subsection 2, at the next election of members the proper number of members shall be elected.

Number of members to be elected by public school electors

(4) The public school electors of the school division shall elect the number of members equal to the product, correct to the nearest integer, the fraction one-half being raised to the next higher integer, obtained by multiplying the number of members to be elected under subsection 2 by the ratio of the equalized residential and farm assessment of the property rateable for public school purposes in the school division to the equalized residential and farm assessment of all the rateable property in the school division, but in no case shall the number of members to be elected under this subsection be fewer than,

(*a*) six where the number of trustees under subsection 2 is fourteen or more; or

(*b*) four where the number of trustees under subsection 2 is fewer than fourteen.

Number of members to be elected by separate school electors

(5) The separate school electors in the school division shall elect the number of members equal to the product, correct to the nearest integer, the fraction one-half being raised to the next higher integer, obtained by multiplying the number of members to be elected under subsection 2 by the ratio of the equalized residential and farm assessment of the property rateable for separate school purposes in the school division to the equalized residential and farm assessment of all the rateable property in the school division, but where the product obtained is less than one, one member shall be elected under this subsection. R.S.O. 1970, c. 425, s. 38 (2-5).

Number of members to be elected by public school electors in a city and in county or district municipalities

(6) The number of members of a divisional board to be elected by the public school electors,

(*a*) of each city shall be equal to the product, correct to the nearest integer, the fraction one-half being

raised to the next higher integer, obtained by multiplying the number of members determined under subsection 4 by the ratio of the equalized residential and farm assessment of the property rateable for public school purposes in the city to the equalized residential and farm assessment of all the property rateable for public school purposes in the school division; and

(*b*) of the county or district municipalities shall be the number of members determined under subsection 4 less the total number of members determined under clause *a* for the city or cities, if any, but in no case shall the number of members to be elected under this clause be fewer than one. R.S.O. 1970, c. 425, s. 38 (6); 1972, c. 75, s. 11 (4).

When determination to be made under subss. 4-6

(7) Before the 1st day of September in the year in which an election is to be held, a determination shall be made,

(*a*) under subsections 4, 5 and 6 if,

(i) it is determined under subsection 3 that the number of members of the divisional board should be increased or decreased, or

(ii) the boundaries of the school division are altered effective the 1st day of January next following the election, or

(iii) the boundaries of the school division have been altered subsequent to the latest determination;

(*b*) under subsection 6 if,

(i) the boundaries of one or more cities within the school division have been altered or a new city has been erected in the school division subsequent to the latest determination made under subsection 6 that did not take into account the altered boundaries or the new city, or

(ii) the boundaries of one or more cities within the school division are to be altered or a new city is to be erected effective on the 1st day of January of the year next following the election; and

(*c*) under subsections 4, 5 and 6 in every fourth year following the latest determination under subsections 4 and 5,

and a determination made under subsection 4, 5 or 6 is effective until a new determination is required in accordance with this subsection.

Where city does not qualify for at least one member to be elected by public school electors

(8) Where a city is not entitled to one or more members under clause *a* of subsection 6, the city shall be deemed to be a county or district municipality for the purposes of subsections 6 and 9, and the clerk of the city shall be deemed to be a clerk of a county or district municipality for the purposes of subsection 9. R.S.O. 1970, c. 425, s. 38 (7, 8); 1973, c. 91, s. 3 (1), *amended*.

Distribution of members to be elected by public school electors in county or district municipalities

(9) With respect to,

(*a*) the county municipalities in a county that comprises a school division, the council of the county;

(*b*) the county municipalities in a regional municipality that are in a school division and the county municipalities in a school division that comprises a county and part of a regional municipality, the clerks of the three county municipalities having successively the greatest equalized residential and farm assessment for public school purposes in the school division; and

(*c*) the district municipalities in a school division, the clerks of the three organized district municipalities having successively the greatest equalized residential and farm assessment for public school purposes in the school division and the clerk of each town or village in which a secondary school is located in the school division and, where there are fewer than three organized district municipalities in the school division, the clerks of all such municipalities,

shall determine the municipality or municipalities to be represented by each member to be elected in the school division by the public school electors under clause *b* of subsection 6, but in no case shall the determination under this subsection provide for a member to be elected by a general vote of all the public school electors of the municipalities other than cities in the school division, and such determination is effective for a period of four years or until the number of members for the school division is increased or decreased under subsection 3 or the boundaries

of one or more county or district municipalities within the school division are altered or are to be altered effective the 1st day of January next following the election. R.S.O. 1970, c. 425, s. 38 (9); 1972, c. 75, s. 11 (5, 6), *amended*.

Distribution of members within combined municipalities

(10) Where two or more county municipalities that are not in a regional municipality are combined under subsection 9 for the election of two or more members by the public school electors and one of the combined municipalities has a population in excess of 75,000, the clerks of such combined municipalities may determine that a portion of a county municipality that is so combined be attached to one or more of the other county municipalities in the combination of municipalities for the election of one or two members and, where the clerks of such combined municipalities so determine,

(*a*) the number of members to be elected by the public school electors of the combined municipalities shall be apportioned among the combined areas formed under this subsection and the remainder, if any, of such combined municipalities, as nearly as is practicable in the proportion that the equalized residential and farm assessment of the property rateable for public school purposes in each such combined area and in the remainder, if any, of such combined municipalities, bears to the total equalized residential and farm assessment of the property rateable for public school purposes in the combined municipalities; and

(*b*) where the remainder of a county municipality is to be represented by two or more members, subsections 21 and 22 apply *mutatis mutandis* in respect of such remainder.

Appeal from determination under subs. 10

(11) Where the determination made under subsection 10 apportions to a combined area or to the remainder of the combined municipalities a percentage of the total number of members to be elected by the public school electors of the combined municipalities as determined under subsection 9 that differs by more than five percentage points from the percentage that the equalized residential and farm assessment of the property rateable for public school purposes in the combined area or the remainder of the combined municipalities, as the case may be, is of the total equalized residential and farm assessment of the property rateable for public school purposes in the combined municipalities, the council of a municipality all or part of which is in the combined area or part of which forms such remainder, as the case may be, may, within fifteen days after such determination has been made, appeal the determination to the judge who

shall either reapportion the number of members in accordance with clause *a* of subsection 10 or, where he determines that the determination was made in accordance with such clause, confirm the determination, and his decision is final. 1972, c. 75, s. 11 (7).

When determination to be made

(12) The determination under subsection 9 shall be made before the 1st day of September, and the determination under subsection 10 may be made before the 15th day of September, in each year in which an election is to be held if,

(*a*) a determination is made in accordance with subsection 7; or

(*b*) the boundaries of one or more county or district municipalities have been altered subsequent to the latest determination under subsection 9, or are to be altered effective the 1st day of January next following the election; or

(*c*) the boundaries of the school division are altered, or are to be altered effective the 1st day of January next following the election. R.S.O. 1970, c. 425, s. 38 (10); 1972, c. 75, s. 11 (8); 1973, c. 91, s. 3 (2).

Where judge to make determination

(13) Where the determination under subsection 9 is not made before the 1st day of September, the clerk of the county municipality or of the organized district municipality, as the case may be, having the greatest equalized residential and farm assessment for public school purposes in the school division, shall refer the matter to the judge who shall make the determination before the 1st day of October in accordance with subsection 14, and where, for any reason, the determination is not made before the 1st day of October, the election shall proceed on the basis of the latest determination. 1972, c. 75, s. 11 (9), *amended*.

Determination

(14) In determining under subsection 9,

(*a*) the number of members to be elected by the public school electors of a county or district municipality; or

(*b*) the county or district municipalities that are to be combined for the election of one or more members by the public school electors of such municipalities,

the council of the county or the clerks of the district municipalities, or the clerks of the county municipalities in a school division in a regional municipality, as the case may be, shall apportion the number of members determined under clause

b of subsection 6, as nearly as is practicable, in the proportion that the equalized residential and farm assessment of the property rateable for public school purposes in the municipality or combined municipalities bears to the total equalized residential and farm assessment of the property rateable for public school purposes in all the county or district municipalities in the school division and shall, in so far as it is practicable to do so, combine municipalities that are adjoining.

Idem

(15) Notwithstanding subsection 14, where the equalized residential and farm assessment of the property rateable for separate school purposes in a school division in a territorial district is less than 5 per cent of the equalized residential and farm assessment of all the rateable property in the school division, and where the equalized residential and farm assessment of the property rateable for public school purposes in a district municipality, expressed as a percentage of the total residential and farm assessment of all such property in the district municipalities in the school division, differs by fifteen or more percentage points from the population of such municipality expressed as a percentage of the total population of all the district municipalities comprising the school division, the clerks of the district municipalities shall apportion the number of members determined under clause *b* of subsection 6, as nearly as is practicable, in the proportion that the population of a district municipality or combination of district municipalities bears to the total population of all the district municipalities comprising the school division, and the right of appeal as provided in subsection 16 applies, but shall be based upon population rather than equalized residential and farm assessment.

Appeal from determination

(16) Where the determination made under subsection 9 allots to a municipality or to a combination of municipalities a percentage of the total number of members to be elected by the public school electors of all the county or district municipalities in the school division that differs by more than five percentage points from the percentage that the equalized residential and farm assessment of the property rateable for public school purposes in the municipality or combination of municipalities is of the total equalized residential and farm assessment of the property rateable for public school purposes in all the county or district municipalities in the school division, the council of the municipality or the council of any one of such combination of municipalities, as the case may be, may, within fifteen days after notice of the determination has been sent, appeal the determination to the judge who shall either reapportion the number of members in accordance with subsection 14 or, where he determines that the determination was made in accordance with subsection 14, confirm the determination, and his decision is final.

Information for determination

(17) The clerk of each city and of each county municipality, district municipality or regional municipality in a school division and the chief executive officer of the divisional board shall provide to the persons required to make a determination under this section, on their request, the information required for such purpose. R.S.O. 1970, c. 425, s. 38 (12-15), *amended*.

By whom determination to be made

(18) The determinations required to be made under subsections 2, 4, 5, 6 and 24 shall be made in respect of a school division,

(*a*) in a county or in a county and part of a regional municipality, by the clerk of the county;

(*b*) entirely in a regional municipality, by the clerk of the regional municipality;

(*c*) in the territorial districts,

(i) by the clerk of the organized district municipality, or

(ii) where the school division does not include an organized district municipality, by the clerk of the city,

that has the greatest equalized residential and farm assessment for public school purposes in the school division,

and the clerk who makes such determinations shall send by registered mail to the clerk of each city and of each county or district municipality in the school division and to the secretary of the divisional board,

(*d*) before the 1st day of September in each year in which it is determined under subsection 3 that the number of members of the divisional board should be increased or decreased or in which a determination is made under subsection 9 or 25, a copy of each of the determinations made under subsections 2, 4, 5, 6, 9, 24 and 25; and

(*e*) before the 1st day of October in each year in which a determination is made by the judge under subsection 13 or 25, a copy of the determination. R.S.O. 1970, c. 425, s. 38 (16); 1972, c. 75, s. 11 (10); 1972, c. 136, s. 4, *amended*.

(19) The council of any municipality concerned and a divisional board on behalf of any territory without municipal organization that is deemed a district municipality may, within ten days of the mailing of the determination made under subsection 4, 5, 6 or 24, appeal to the judge with respect to the accuracy of the determination, and his decision is final, and the clerk responsible for making such determination shall make such changes in such determination as the judge requires.

Questions to be determined by judge

(20) Where the council of a municipality or a divisional board on behalf of any territory without municipal organization that is deemed a district municipality, after the period allowed for an appeal under this section and notwithstanding a decision made in respect of such appeal, is of the opinion that the composition of the board of a school division was not determined in accordance with the provisions of this section, the council or the board may, before the 1st day of May in the year of the next following election, apply to the judge to have the determination set aside and, where the judge finds that the determination was not made in accordance with the provisions of this section, he shall order a new determination to be made, and the determination so made, subject to an appeal under subsection 16 or 19, shall apply to the election next following such determination, and the divisional board in respect of which the application to the judge is made shall be deemed to have been properly constituted notwithstanding any defect in its composition.

New determination where former determination improper

(21) The number of members to be elected in a municipality shall be elected by a general vote of the public school electors or separate school electors, as the case may be, in the municipality, provided that, where it is determined under this section that the number of members to be elected to the divisional board by the public school electors in a municipality or by the separate school electors in a municipality is two or more, the council of the municipality may, by by-law, divide the municipality into two or more areas and provide for the election of one or more of such members by the public school electors or separate school electors, as the case may be, in each of such areas. R.S.O. 1970, c. 425, s. 38 (17-19).

Election by public school electors and by separate school electors

(22) A by-law for the purpose mentioned in subsection 21 and a by-law repealing any such by-law shall not be passed later than the 1st day of October in the year of the election and shall take effect for the purpose of the election next after the passing of the by-law and remain in force until repealed. R.S.O. 1970, c. 425, s. 38 (20), *amended*.

Time for passing by-law

Election by public school electors in county and district municipalities

(23) Where two or more county or district municipalities are combined for the election of one or more members, such member or members shall, except where a determination is made under subsection 10, be elected by a general vote of the public school electors of the combined municipalities, and where, under subsection 10 or 11, a portion of a county municipality is attached to one or more other county municipalities for the election of one or two members or the remainder of the combined municipalities comprises parts of two or more municipalities, the number of members apportioned thereto shall be elected by a general vote of the public school electors of such combined area or remainder, and,

(*a*) the nominations in each case shall be submitted to the returning officer of the municipality having the greatest equalized residential and farm assessment for public school purposes of any municipality all of which is in the area for which the member or members are to be elected, who shall send to the clerk of each municipality concerned, by registered mail within forty-eight hours after the closing of nominations, the names of the candidates who have qualified; and

(*b*) the clerk of each municipality shall be the returning officer for the vote to be recorded in his municipality and he shall report forthwith the vote recorded to the returning officer referred to in clause *a*, who shall prepare the final summary and announce the result of the vote. 1972, c. 75, s. 11 (11).

Number of members to be elected by separate school electors in cities and county or district municipalities

(24) Where a school division includes one or more county or district municipalities and one or more cities, and the number of members to be elected by the separate school electors under subsection 5 exceeds one, the number of members to be elected by the separate school electors of each city and of the county or district municipalities shall be determined in accordance with subsections 6, 7 and 8, which subsections apply *mutatis mutandis*, except that the equalized residential and farm assessment of the separate school supporters shall be used in the determinations.

Distribution of members to be elected by separate school electors

(25) Where it is determined under subsection 5 or 24 that the number of members to be elected by the separate school electors of the county or district municipalities in the school division exceeds one, the county or district municipalities to be represented by each such member shall be determined in accordance with subsections 9, 12, 13, 14 and 16, which subsections apply *mutatis mutandis*, except that,

(*a*) the equalized residential and farm assessments of the separate school supporters shall be used in all the determinations; and

(*b*) the reference in subsection 9 to the clerk of a town or village in which a secondary school is located in the school division shall be deemed to refer only to a town or village that is in a separate school zone. R.S.O. 1970, c. 425, s. 38 (22, 23).

Distribution of members within combined municipalities

(26) Where two or more county municipalities are combined for the election of two or more members to be elected by separate school electors, subsections 10 and 11 apply *mutatis mutandis* to such combination of municipalities except that the equalized residential and farm assessments of the property rateable for separate school purposes shall be used in all the determinations. 1972, c. 75, s. 11 (12).

Election of members by separate school electors

(27) Where the number of members,

(*a*) determined under subsection 5 is one, such member shall be elected by a general vote of the separate school electors of the school division; or

(*b*) to be elected by the separate school electors of the county or district municipalities under subsection 24 is one, such member shall be elected by a general vote of the separate school electors of the county or district municipalities in the school division. R.S.O. 1970, c. 425, s. 38 (24).

Idem

(28) Where,

(*a*) one member is to be elected by a general vote of the separate school electors of a school division or of the separate school electors of the county or district municipalities in a school division; or

(*b*) two or more municipalities are combined for the purpose of the election of one or more members by the separate school electors,

then,

(*c*) the nominations for such member or members shall be conducted by the returning officer of the municipality having the greatest equalized residential and farm assessment for separate school purposes of any municipality all of which is in the area for which the member or members are to be elected who shall send

to the clerk of each municipality concerned, by registered mail within forty-eight hours after the closing of nominations, the names of the candidates who have qualified; and

(*d*) the clerk of each municipality shall be the returning officer for the vote to be recorded in his municipality and he shall report forthwith the vote recorded to the returning officer referred to in clause *c*, who shall prepare the final summary and announce the result of the vote. R.S.O. 1970, c. 425, s. 38 (25); 1972, c. 75, s. 11 (13).

Secretary of board deemed clerk for elections in areas deemed district municipalities

(29) For the purposes of clause *b* of subsection 23 and clause *d* of subsection 28, the secretary of the divisional board of a school division shall be the clerk of each part of territory without municipal organization that is deemed a district municipality in the school division. R.S.O. 1970, c. 425, s. 38 (26).

Elections

(30) The election of members of a divisional board shall be conducted by the same officers and in the same manner as elections of members of the council of a municipality. 1972, c. 75, s. 11 (14).

Effect of boundary change on elections

(31) Where the boundaries of a school division are to be altered effective on the 1st day of January next following the election of members of the board of the school division, the boundaries of the school division shall be deemed to have been so altered for all purposes relating to such election. 1972, c. 136, s. 5.

Qualifications for nominators of candidates

(32) Every nominator of a candidate for the office of a member to be elected,

(*a*) by public school electors, shall be a public school elector; and

(*b*) by separate school electors, shall be a separate school elector. R.S.O. 1970, c. 425, s. 41, *amended*.

Boards of Education

Interpretation

58.—(1) In this section and in section 59, "board of education" means a board of education other than a divisional board of education. R.S.O. 1970, c. 425, s. 20.

Establishment and status of board

(2) A board of education may be established in a secondary school district that is not a school division to perform the duties of a secondary school board for the district and the duties of a public school board for the school section or sections situated within the boundaries of the district and, where a board of education is established, subsection 3 of section 53 applies, *mutatis mutandis*.

(3) The name of a board of education that has jurisdiction in one municipality is "The Board of Education for the .....of....." (*inserting the name of the municipality*). Name of board

(4) The name of a board of education that has jurisdiction in more than one municipality is "The..... Board of Education" (*inserting a name selected by the board and approved by the Minister*). R.S.O. 1970, c. 425, s. 21, *amended*. Idem

(5) A member of a board of education elected by separate school electors or, in the case of a vacancy, by the remaining members elected by separate school electors is a trustee for secondary school purposes only and shall not move, second or vote on a motion that affects public schools exclusively and all other members of a board of education are trustees for public and secondary school purposes. 1971, c. 68, s. 3, *amended*. Members to be trustees

(6) Upon the organization of a board of education, Assets, liabilities, etc.

(*a*) the secondary school board and all public school boards in the secondary school district are dissolved;

(*b*) all the property vested in such boards becomes vested in the board of education; and

(*c*) all debts, contracts, agreements and liabilities for which such boards were liable become obligations of the board of education. R.S.O. 1970, c. 425, s. 22.

59.—(1) Where a board of education is established for one municipality that is not a school division or part of a school division, the members of the board shall be elected as provided in section 55, which section applies *mutatis mutandis*, except that the number of members to be elected by the separate school electors shall be, Composition of boards of education

(*a*) where the population of the municipality is 50,000 or more, not fewer than two; and

(*b*) where the population of the municipality is less than 50,000, not fewer than one. R.S.O. 1970, c. 425, s. 24 (1).

(2) Subsections 30 and 32 of section 57 apply *mutatis mutandis* to the nomination and election of candidates for members of a board of education. *New*. Qualifications for nominators of candidates

District School Area Boards

60.—(1) On and after the 1st day of January, 1975, every school section that is in a territorial district but is not in a school division or designated as a school section under School section to be district school area

section 68 is a district school area, and the board of each such school section is a public school board and shall be known as a district school area board.

Formation and alteration of district school area

(2) In respect of the territorial districts, the Lieutenant Governor in Council may, by regulation, on or before the 1st day of July in any year, to be effective on the 1st day of January next following,

(*a*) form any part thereof that is not in a school section into a district school area;

(*b*) combine two or more district school areas into one district school area;

(*c*) add a part thereof that is not in a school division to a district school area; or

(*d*) detach a portion thereof from one district school area and attach it to another district school area or form it into a new district school area.

Notification of assessment commissioner

(3) Where a district school area is formed or altered under subsection 2, the appropriate provincial supervisory officer shall notify the assessment commissioner concerned.

Effective date for election purposes

(4) Notwithstanding subsection 2, the formation or alteration of a district school area thereunder shall, for all purposes relating to the election of a board, be deemed to be effective on the 1st day of July in the year of such formation or alteration.

Arbitration

(5) Where the boundaries of a district school area are altered in accordance with clause *b* or *d* of subsection 2, the Minister shall, by order, provide for arbitration of the assets and liabilities of the boards concerned.

Name of board

(6) The board of a district school area is a corporation by the name of "The.....District School Area Board" (*inserting a name selected by the board and approved by the Minister*). *New.*

New district school areas

61.—(1) Where a district school area is formed under clause *b* of subsection 2 of section 60, upon the effective date of such formation the existing public school boards in the new district school area are dissolved, and, subject to subsection 5 of section 60,

(*a*) the property vested in such boards is vested in the new district school area board; and

(*b*) all debts, contracts, agreements and liabilities for which such boards were liable become obligations of the district school area board.

Alteration and formation: disposition of assets and liabilities

(2) Where the boundaries of a district school area are altered or a new district school area is formed under clause *d* of subsection 2 of section 60, upon the effective date of such alteration or formation, and, subject to subsection 5 of section 60,

(*a*) all real and personal property of the board situate in the part of the district school area that is detached is vested in the board of the district school area to which such part is attached, or in the board of the new district school area, as the case may be; and

(*b*) all debts, contracts, agreements and liabilities of the board in respect of the part of the district school area that is detached become obligations of the board of the district school area to which such part is attached or of the board of the new district school area, as the case may be. *New*.

Public school elector

62.—(1) In sections 62, 63 and 64, "public school elector" means in respect of territory without municipal organization, owners and tenants of property in such territory without municipal organization, including their spouses who are Canadian citizens or British subjects and of the full age of eighteen years and who are not separate school supporters.

Composition of board

(2) Subject to subsections 3 and 4, a district school area board shall be composed of three members.

Idem

(3) Where a school section that is to become a district school area on the 1st day of January, 1975, has a board of five members, the district school area board shall be composed of five members.

Increase in number of members

(4) Before the 1st day of July of an election year, the board of a district school area that is not an improvement district may, by resolution approved at a meeting of the public school electors, determine that the number of members to be elected shall be increased from three to five and, at the next following election, five members shall be elected.

Election year and term of office

(5) The election of members of the board of a district school area that is not an improvement district shall be held in the year 1974 and in every second year thereafter, and the members shall hold office for a term of two years except that,

new board in "off election year"

(*a*) where a new district school area is formed to take effect on the 1st day of January in the year 1976 or in any second year thereafter the first members of such board shall be elected in the year preceding such 1st day of January and shall hold office for one year; or

idem

(*b*) where the boundaries of a district school area are altered to take effect on the 1st day of January in the year 1976 or in any second year thereafter, a new district school area board shall be elected in the year preceding such 1st day of January, and the members so elected shall hold office for one year. *New.*

Elections and Meetings of Electors

Election date

63.—(1) Except as provided in section 64, a district school area board shall be elected at a meeting of the public school electors held on the first Monday in December in the year of an election at a time and place selected by the board.

Notice of meeting

(2) At least six days before a meeting under subsection 1 or 6, the secretary of the board shall post notice of the meeting in three or more of the most prominent places in the district school area and may advertise the meeting in such other manner as the board considers expedient.

Meeting

(3) Meetings of public school electors shall be conducted in the manner determined by the public school electors present at the meeting by a presiding officer selected by such electors, but the election of members of the board shall be by ballot, and the minutes of the meeting shall be recorded by a secretary selected by such electors.

First meeting

(4) The first meeting for the election of a board of a district school area formed or altered under subsection 2 of section 60 shall be held at a time and place named by a person, designated by the Minister, who shall make the necessary arrangements for the meeting.

Minutes to be sent to Ministry

(5) A correct copy of the minutes of every meeting of the public school electors, signed by the presiding officer and the secretary of the meeting, shall, within ten days after the meeting, be transmitted by the presiding officer to the Ministry.

(6) A special meeting of the public school electors shall be called by the secretary when directed by the board or upon the request in writing of five public school electors of the area, by posting notice of the meeting in three or more of the most prominent places in the district school area, and such notice shall include a clear statement of the date, time, place and objects of the meeting, and the meeting may be advertised in such other manner as is deemed necessary. *New.* Special meetings

(7) If objection is made to the right of a person in territory without municipal organization to vote at a meeting under this section, or at an election under section 64, the presiding officer or the returning officer, as the case may be, shall require the person to make the following declaration: Declaration where right to vote objected to

I,....., declare and affirm that:

1. I am the owner (*or* tenant) of property in The..... District School Area; *or*, I am the spouse of the owner (*or* tenant) of property in The..... District School Area;

2. I am of the full age of eighteen years;

3. I am a Canadian citizen or British subject;

4. The property in respect of which I claim the right to vote is not assessed to the support of separate schools;

5. I have a right to vote at this election (*or* on the question submitted to this meeting),

and after making such declaration the person making it is entitled to vote. R.S.O. 1970, c. 385, s. 34 (7); 1971, c. 98, s. 4, Sched., par. 27, *amended.*

(8) Subsections 7, 8, 9, 10, 11, 13, 14, 15, 16, 17, 19 and 20 of section 100 apply *mutatis mutandis* to an election under this section. *New.* Election procedures

64.—(1) Notwithstanding section 63, before the 1st day of July in an election year, the board of a district school area may, by resolution approved at a meeting of the electors, determine that the board shall conduct the elections in the same manner as for the members of a divisional board of education, except that the members shall be elected by a general vote of the electors of the district school area and for such purposes subsection 1 of section 51 applies *mutatis mutandis* to the district area board and to the officers of such board. Elections

Idem

(2) The board shall give notice of the determination made under subsection 1 to the electors in the same manner as provided in subsection 7 of section 63.

Idem

(3) Where a district school area comprises,

(*a*) a municipality other than an improvement district;

(*b*) a municipality and territory without municipal organization;

(*c*) all or part of two or more municipalities; or

(*d*) all or parts of two or more municipalities and territory without municipal organization,

the election of the board of such district school area shall be conducted under *The Municipal Elections Act, 1972*, and for the purposes of an election under this section in an improvement district or in territory without municipal organization the secretary of the board shall be the returning officer and shall perform all the duties that are required of a municipal clerk in relation to the election of members of a divisional board. *New*.

1972, c. 95

Powers and duties

65.—(1) The board of a district school area that includes territory without municipal organization shall, for public school purposes and in accordance with the regulations for community recreation purposes, exercise the powers and duties of a municipal council for such territory in respect of levying rates and collecting taxes, and the officers appointed by the board have the same powers and duties as similar officers in a municipality, and the expenses in connection therewith shall be raised by a levy imposed by the board on the property rateable for public school purposes in such territory without municipal organization. R.S.O. 1970, c. 385, s. 38 (1), *part, amended*.

Auditors and financial matters

(2) Subject to subsection 3, the provisions of sections 203, 204, 205 and 206 respecting auditors, debentures, estimates and apportionment apply *mutatis mutandis* in respect of a district school area and to the board thereof. R.S.O. 1970, c. 385, s. 38 (1), *part, amended*.

Rates in municipality

(3) Where a district school area includes a municipality, section 208 applies *mutatis mutandis* to the council of the municipality. *New*.

Debentures

(4) A district school area board in territory without municipal organization may not apply to the Ontario Municipal Board in respect of the issue of debentures for a permanent

improvement until such issue has been sanctioned at a special meeting of the public school electors. 1971, c. 69, s. 3, *amended*.

Collection of taxes

(5) The board of a district school area may appoint a tax collector who has in that part of the district school area that is not a municipality the same powers in collecting the school rate or subscriptions, and is under the same liabilities and obligations and shall proceed in the same manner in the school section, as a township collector in collecting rates in a township. R.S.O. 1970, c. 385, s. 42 (1, 2); 1971, c. 69, s. 4, *amended*.

Return of arrears of taxes in unorganized territory

(6) The collector shall, on or before the 8th day of April in the year following the year in which a school rate becomes due and payable, make a return to the sheriff of the territorial district showing each lot or parcel assessed upon which the school rates have not been fully paid, the name of the person assessed as owner or occupant and the amount of school rates chargeable against the lot or parcel and in arrear at the date of the return with the year for which the rates so in arrear were imposed.

Entry in sheriff's book

(7) The sheriff shall enter in a book to be kept by him for that purpose the particulars furnished by the collector.

Payments of arrears thereafter

(8) The collector shall not receive any payment on account of school rates so in arrear after the expiration of two years from the date when the rates became due, but, in the case of payments made before the expiration of that period, the collector shall forthwith notify the sheriff thereof, and the sheriff shall enter the payment against the proper lot or parcel in the book kept by him.

When arrears to be paid to sheriff

(9) After the expiration of such period, all such arrears are payable to the sheriff, who shall enter all payments in the book kept by him and shall return the amount paid to the treasurer of the board.

Sale of land for arrears

(10) When it appears from the entries in the book kept by the sheriff that any school rate is in arrear for three years from the 31st day of December in the year in which the rate became payable, the sheriff shall proceed to collect the same by the sale of the lands assessed, and the procedure in relation to such sale and the provisions applicable to purchase by the municipality and to the redemption of lands thereafter and to deeds to be given by the sheriff to tax purchasers shall be the same, as nearly as may be, as in the case of the sale of lands for arrears of taxes in organized municipalities, and the board may in such cases exercise the power of purchase conferred upon a municipality.

Where tax arrears procedures of R.S.O. 1970, c. 118 in effect

(11) Where the tax arrears procedures under *The Municipal Affairs Act* are in effect in a district school area, it is not necessary for the collector to furnish to the sheriff any of the information or statements required under this section in respect of tax arrears, and the powers and duties of the sheriff in respect of tax arrears and tax sales do not apply in respect of the school section, and all the powers and duties of the sheriff in respect of tax arrears are vested in the treasurer of the board. R.S.O. 1970, c. 385, s. 42 (3-8), *amended*.

Rates for first year to be levied on current assessment

(12) In the first year that any territory without municipal organization is included in a district school area, the rates for that year shall be levied on the assessment of the property in such territory made for that year. R.S.O. 1970, c. 425, s. 3 (5), *amended*.

District school area to be inactive

66.—(1) Where the number of public school pupils of compulsory school age residing in a district school area is fewer than ten and the board has ceased to operate a school, the Minister may declare the district school area inactive as of the 31st day of December in any year. R.S.O. 1970, c. 385, s. 43 (1); 1973, c. 37, s. 5, *amended*.

Accounts in inactive area

(2) When a district school area is declared to be inactive, the board shall liquidate its assets, settle its accounts and have them audited, and forward to the Ministry the audited statement of accounts, the auditor's report and the balance of the funds for deposit in the Consolidated Revenue Fund.

Board dissolved

(3) If the Minister is satisfied that the board has carried out its duties under subsection 2 he shall dissolve the board and the district school area shall cease to exist as of the date that the district school area was declared inactive under subsection 1.

Records to be forwarded to Ministry

(4) The records of the dissolved board of the district school area shall be filed as the Minister may direct and, for the purposes of this Act, the pupils resident in such area shall be deemed not to reside in a school section. R.S.O. 1970, c. 385, s. 43 (2-4), *amended*.

Certain school sections to cease to exist

(5) Every inactive school section the board of which was dissolved prior to the 1st day of January, 1975 shall cease to exist on the 1st day of January, 1975. *New*.

Closing of school by Minister

(6) Where in any district school area there are for two consecutive years fewer than eight persons between the ages of five and fourteen years residing therein, the Minister may direct that the public school of the area shall no longer remain open, and the school shall thereupon be closed until the Minister otherwise directs. R.S.O. 1970, c. 385, s. 53 (3), *amended*.

Secondary Schools Outside School Divisions in Territorial Districts

In territorial districts

67.—(1) The Lieutenant Governor in Council may establish any area in the territorial districts that is not part of a school division as a secondary school district and may discontinue or decrease or increase the area of any such secondary school district and, if any such secondary school district is discontinued, or the area is decreased or increased, the assets and liabilities of the board shall be adjusted or disposed of as determined by the Ontario Municipal Board. R.S.O. 1970, c. 425, s. 2 (1).

Board in territorial districts outside school divisions

(2) Where a secondary school district is established under subsection 1, the Lieutenant Governor in Council may make regulations providing for,

(*a*) the formation and composition of a secondary school board;

(*b*) the apportionment of costs within the secondary school district; and

(*c*) the issuing of debentures by the board for permanent improvements,

and the board is a corporation by the name designated by the Lieutenant Governor in Council. R.S.O. 1970, c. 425, s. 3 (1), *amended*.

Powers and duties

(3) The board shall exercise the powers and duties of a municipal council for that part of the secondary school district that comprises territory without municipal organization in respect of levying rates and collecting taxes for secondary school purposes, and the officers appointed by the board have the same powers and duties as similar officers in a municipality, and the expenses in connection therewith shall be raised by a levy imposed on the property rateable for secondary school purposes in such territory without municipal organization. R.S.O. 1970, c. 425, s. 3 (2, 4), *amended*.

Auditors and estimates

(4) The provisions of sections 203 and 205 respecting auditors and estimates apply *mutatis mutandis* to the board of a secondary school district established under this section.

Rates in municipality

(5) Where a secondary school district established under this section includes a municipality, section 208 applies *mutatis mutandis* to the council of the municipality.

Collection of taxes

(6) Subsections 5 to 12 of section 65 apply *mutatis mutandis* in respect of a secondary school district established under this section and to the board thereof.

Board of education

(7) The Lieutenant Governor in Council may establish a board of education for a secondary school district established under subsection 1, in which case the other provisions of this

section and subsections 5 and 6 of section 58 apply, *mutatis mutandis*, to the board of education for public school purposes and for secondary school purposes. R.S.O. 1970, c. 425, s. 2 (2), *amended*.

Boards on Tax Exempt Land

Public school on Crown lands

68.—(1) Where, in the opinion of the Minister, it is desirable to establish and maintain a public school board on lands held by the Crown in right of Canada or Ontario, or by an agency thereof, or on other lands that are exempt from taxation for school purposes, the Minister may by order designate any portion of such lands as a school section and may appoint as members of the board such persons as he considers proper, and the board so appointed is a body corporate by the name indicated in the order establishing the school section and has all the powers and duties of a divisional board for public school purposes. R.S.O. 1970, c. 385, s. 12 (1, 2), *amended*.

Secondary school on exempt land

(2) Where, in the opinion of the Minister, it is desirable to establish and maintain a secondary school board on lands held by the Crown in right of Canada or Ontario, or by an agency thereof, or on other lands that are exempt from taxation for school purposes, the Minister may by order designate any portion of such lands as a secondary school district, and may appoint as members of the board such persons as he considers proper, and the board so appointed is a corporation by the name indicated in the order establishing the secondary school district and has all the powers and duties of a divisional board for secondary school purposes.

Board of education on exempt land

(3) Where a secondary school district has been designated under subsection 2, the Minister may authorize the formation of a board of education for the district and may provide for the name of the board, its composition and the term or terms of office of the members thereof, and for all other purposes the provisions in respect of divisional boards apply to the board. R.S.O. 1970, c. 425, s. 4, *amended*.

Section not to be included in district school area or school division

(4) No school section or secondary school district designated under this section shall be included in a district school area or a school division. R.S.O. 1970, c. 385, s. 12 (3), *amended*.

Fee payable by non-resident

(5) Where a pupil attends a school that is operated by a board appointed under this section in a centre for the treatment of cerebral palsy, a crippled children's treatment centre, a hospital or a sanatorium and is not a resident pupil of such board, the board of which he is a resident pupil or is qualified to be a resident pupil shall pay to the board that operates the school a fee calculated under the regulations and, where he is not a resident pupil or qualified to be a resident pupil of a board and his cost of education is not payable by the Minister under the regulations, his parent or guardian shall

pay to the board that operates the school a fee fixed by such board, but such fee shall not be greater than the fee calculated under the regulations. R.S.O. 1970, c. 424, s. 72; 1972, c. 77, s. 32 (3), *amended*.

Schools for Trainable Retarded Children

69.—(1) In sections 69 to 78, Interpretation

(*a*) "committee" means an advisory committee on schools for trainable retarded children;

(*b*) "divisional board" means a divisional board of education and includes The Metropolitan Toronto School Board;

(*c*) "local association" means a parent's group that is affiliated with the Ontario Association for the Mentally Retarded and that operates within the area of jurisdiction of the board;

(*d*) "school division" includes the Metropolitan Area as defined in *The Municipality of Metropolitan Toronto Act*. R.S.O. 1970, c. 295

(2) For the purposes of sections 69 to 78, The Metropolitan Toronto School Board shall be deemed to be organized as a divisional board on the 1st day of January, 1969. R.S.O. 1970, c. 425, s. 69, *amended*. Metropolitan Toronto School Board

70.—(1) Subject to subsection 2, every divisional board shall provide adequate accommodation for the trainable retarded children who reside in the school division and shall establish and maintain a school or class for the trainable retarded children who are admitted under section 75. Provision of adequate accommodation

(2) A divisional board may, in lieu of establishing and maintaining a school or class for trainable retarded children, enter into an agreement with another divisional board to provide for the instruction of the trainable retarded children who reside in the school division of the first-mentioned board in a school or class for trainable retarded children under the jurisdiction of the other board and for the payment of fees in respect of such pupils. *New*. Agreement with other divisional board

(3) Where a child referred to in subsection 2 is admitted to or excluded from a school or class for trainable retarded children by the admissions board of the divisional board Admission deemed decision of sending board

that operates the school or class, such admission or exclusion shall be deemed to be a decision of an admissions board for the board of the school division in which the child resides. R.S.O. 1970, c. 425, s. 73, *part*.

Right to attend school

71.—(1) Subject to section 75, a trainable retarded child whose parent or guardian resides in a school division has the right to attend a school or class for trainable retarded children established by the board of the school division or provided under an agreement made under subsection 2 of section 70.

Admission of other children

(2) Subject to section 75, a divisional board may admit to a school for trainable retarded children operated by the board a child who does not have the right to attend such school under subsection 1. R.S.O. 1970, c. 425, s. 77 (1, 2), *amended*.

Advisory committee

72.—(1) A divisional board shall establish an advisory committee on schools for trainable retarded children.

Composition

(2) The committee shall consist of six members, of which,

(*a*) three shall be appointed by the divisional board from among its members; and

(*b*) three shall be appointed by the local association, or where there is more than one local association, three shall be appointed at a joint meeting of the associations concerned or, where there is no local association, three who are not members of the board shall be appointed by the board.

Qualifications of members

(3) The members of the committee appointed by the local association or associations shall have the qualifications required for the members of the divisional board.

Term of office

(4) The members of the committee shall hold office until the expiry of the term for which the members of the divisional board were elected.

Vacancies

(5) Every vacancy on a committee occasioned by death, removal or other cause shall be filled by appointment by the divisional board or the local association or associations, as the case may be, of some qualified person, and every person so appointed shall hold office for the unexpired portion of the term of the member whose office has become vacant. R.S.O. 1970, c. 425, s. 73, *amended*.

Allowance

(6) The divisional board may pay to each member of the committee who is not a member of the divisional board an allowance in accordance with subsection 1 of section 164,

except that the maximum allowance shall be based upon the enrolment in schools or classes for trainable retarded children and subsection 5 of the said section 164 applies *mutatis mutandis* to such member. R.S.O. 1970, c. 425, s. 73 (6).

Quorum

73.—(1) A majority of the members of the committee is a quorum, and a vote of a majority of the members present at a meeting is necessary to bind the committee.

Chairman

(2) The members of the committee shall, at their first meeting, elect one of themselves as chairman who shall preside at all meetings and, if at any meeting the chairman is not present, the members present may elect a chairman for that meeting.

Chairman voting

(3) On every motion, the chairman may vote with the other members of the committee, and any motion on which there is an equality of votes is lost.

Personnel and services available to committee

(4) The divisional board shall make available to the committee such personnel and services as the divisional board considers necessary for the proper functioning of the committee. R.S.O. 1970, c. 425, s. 74.

Powers of committee

74.—(1) The committee may make recommendations to the divisional board relating to matters affecting the establishment and development of programs, services and facilities in respect of trainable retarded children.

Right of committee to be heard

(2) Before making a decision on a recommendation of the committee, the divisional board shall provide an opportunity for the committee to be heard before the board and before any committee thereof to which the recommendation is referred. R.S.O. 1970, c. 425, s. 75, *amended*.

Admission or exclusion by admissions board

75.—(1) A child may be admitted to or excluded from a school or class for trainable retarded children operated by a divisional board only upon the decision of an admissions board consisting of,

(*a*) the principal in charge of the school or class for trainable retarded children;

(*b*) a legally qualified psychiatrist or other legally qualified medical practitioner appointed by the board;

(*c*) a supervisory officer designated by the divisional board that operates the school or, where such divisional board has not appointed a supervisory officer, a provincial supervisory officer designated by the Minister; and

(*d*) where all or part of the municipality in which the school is located is in a separate school zone, a supervisory officer designated by the separate school board having jurisdiction in such zone and, where such separate school board has not appointed a supervisory officer, a provincial supervisory officer designated by the Minister,

and the divisional board shall establish the procedures to be followed by the admissions board in respect of admission to or exclusion from a school or class for trainable retarded children, but such procedures shall provide for the parent or guardian of the child to make representations to the admissions board. R.S.O. 1970, c. 425, s. 77 (6); 1973, c. 91, s. 6, *amended*.

Chairman of admissions board

(2) The principal of the school to which the child seeks admission shall be the chairman of the admissions board. R.S.O. 1970, c. 425, s. 77 (7).

Operation of school for trainable retarded in Moosonee

76.—(1) The board of the district school area that was formerly School Section No. 1 of the unorganized Township of Moose in the Territorial District of Cochrane, may, with the approval of the Minister, establish and operate a school or class for trainable retarded children and, except as otherwise provided in this section, sections 70, 71, 72, 73, 74, 75, 77 and 78 apply *mutatis mutandis* in respect of such school or class.

Advisory committee

(2) Notwithstanding subsection 2 of section 70, the board that operates a school or class for trainable retarded children under subsection 1 shall establish an advisory committee for trainable retarded children consisting of,

(*a*) two members appointed by such board from among its members;

(*b*) one member appointed by the board of the Roman Catholic Separate School Board No. 1 of the Township of Moose in the Territorial District of Cochrane from among its members; and

(*c*) two members appointed by the local association or, where no local association has been established, two members appointed by the board that operates the school or class, who shall not be members of such board. 1972, c. 136, s. 6, *amended*.

Fees for non-resident pupils

77.—(1) Where a divisional board provides instruction in a school or class for trainable retarded children for a pupil whose parent or guardian does not reside in the school division, the board of the school division or secondary school district

in which his parent or guardian resides, shall pay to the divisional board on behalf of the pupil a fee calculated in accordance with the regulations.

Fees where residence in school section and separate school zone

(2) Where a divisional board provides instruction in a school or class for trainable retarded children for a pupil whose parent or guardian does not reside in a school division or a secondary school district but does reside in a school section or in a separate school zone, the board of the school section or separate school zone of which the parent or guardian is a supporter shall pay to the divisional board on behalf of the pupil a fee calculated in accordance with the regulations.

Admission of child resident on tax-exempt lands

(3) Where a child is admitted to a school or class for trainable retarded children but his parent or guardian is resident on lands that are exempt from taxation for school purposes and that have been designated by the Minister as a school section for which a board has been appointed under subsection 1 of section 68 or that have been designated a secondary school district for which a board has been appointed under subsection 2 of section 68, the board shall pay to the divisional board a fee calculated in accordance with the regulations. R.S.O. 1970, c. 425, s. 78, *amended*.

Boarding of pupils where daily transportation impracticable

78.—(1) Where a pupil resides in a school division with his parent or guardian in a residence from which daily transportation to a school or class for trainable retarded children that he has a right to attend is impracticable due to distance or terrain as certified by the appropriate supervisory officer of the school division in which the pupil resides, the board of the school division in which his parent or guardian resides may reimburse the parent or guardian at the end of each month for the cost of providing for such pupil, board, lodging, and transportation once a week from his residence to the school or class and return, in an amount set by the board for each day of attendance as certified by the principal of the school or class for trainable retarded children that the pupil attends.

Idem

(2) Where a pupil resides in a school section or in a separate school zone, but not in a school division, with his parent or guardian in a residence from which daily transportation to the school or class for trainable retarded children that he attends is impracticable due to distance or terrain as certified by the supervisory officer who has jurisdiction in the school section or separate school zone, the board of the school section or of the separate school zone of which his parent or guardian is a supporter may reimburse the parent or guardian at the end of each month for the cost of providing for such pupil, board, lodging, and transportation once a week from his residence to the school or class and return, in an amount set by

the board for each day of attendance as certified by the principal of the school or class for trainable retarded children that the pupil attends.

Idem

(3) Where a pupil resides in a territorial district, but not in a school division, school section or separate school zone, with his parent or guardian in a residence from which daily transportation to the school or class for trainable retarded children that he attends is impracticable due to distance or terrain as certified by the supervisory officer of the divisional board of the school that he attends, the divisional board may reimburse the parent or guardian at the end of each month for the cost of providing for such pupil, board, lodging, and transportation once a week from his residence to the school or class and return, in an amount set by the board for each day of attendance as certified by the principal of the school or class for trainable retarded children that the pupil attends. R.S.O. 1970, c. 425, s. 79, *amended*.

Certification of attendance

(4) For the purpose of certifying attendance under subsections 1, 2 and 3, the principal may add to the number of days of attendance of a pupil the number of days the pupil is absent by reason of being ill or is absent for any other cause if the principal is of the opinion that the absence was unavoidable. R.S.O. 1970, c. 424, s. 42 (8-14), *amended*.

PART IV

ROMAN CATHOLIC SEPARATE SCHOOLS

Application of Part

79. This Part applies to separate schools for Roman Catholics now or hereafter established and shall have the same effect as if this Part were a special Act respecting separate schools for Roman Catholics. R.S.O. 1970, c. 430, s. 16, *amended*.

Zones

Boundaries of zones

80.—(1) The boundaries of separate school zones shall be determined in relation to their centres.

Centre of zone

(2) Where a board operates a separate school, the centre of the separate school zone is the most northern corner astronomically of the site of the separate school provided that, where the most northern boundary of the site has a bearing due west astronomically, the corner of the site at the western extremity of the most northern boundary is the centre.

Centres where two or more schools

(3) Where a board operates two or more separate schools, there shall be a centre for each school.

(4) Where a board does not operate a school but owns one parcel of land, for the purpose of determining the centre of the separate school zone, the board shall be deemed to operate a school on such parcel of land.

Centre where board owns land but does not operate school

(5) Where a board does not operate a separate school or own a parcel of land, a parcel of land approved by the supporters for the purpose of determining the centre of the zone shall be deemed to be the site of a separate school for such purpose, and the board shall notify the Minister, the clerks of the municipalities concerned and the chief executive officers of the divisional boards or the secretaries of public school boards affected, before the 30th day of September of the year in which the parcel was so approved.

Centre where board does not operate school or own site

(6) The centres of a combined separate school zone are the centres determined in respect of each school site on which a school is operated and include the centre of each former zone that became part of the combined separate school zone and in which a separate school is not operated.

Centres of combined zone

(7) Subject to section 82, every parcel of land that is wholly or partly within a radius of three miles from a centre of a separate school zone is within the zone.

Rural and combined separate school zone

(8) Subject to section 82, where a separate school board is established in an urban municipality, the urban separate school zone includes the urban municipality and any parcel of land that is within,

Urban separate school zone

(*a*) a township; or

(*b*) an urban municipality in which a separate school zone has not been established,

and that is within a radius of three miles from a centre in the urban municipality.

(9) A separate school zone, except a combined separate school zone, shall not include land in a municipality as well as land in territory without municipal organization. R.S.O. 1970, c. 430, s. 54 (1-8, 10), *amended*.

Zones not to include organized and unorganized territory

81.—(1) For each separate school zone that includes part or all of a township or territory without municipal organization, the appropriate separate school supervisory officer shall,

Maps and descriptions of zones

(*a*) prepare maps of each township in which part or all of a separate school zone is located showing the boundary of each separate school zone therein or partly therein;

(*b*) describe each zone by indicating the name of the board, the centre of the zone, and the municipalities wholly or partly within the zone;

(*c*) where the boundary of a zone is altered, prepare a revised map and description;

(*d*) sign and date the original maps and description of each zone and retain them on file; and

(*e*) furnish,

(i) to each separate school board, a map or description of its zone,

(ii) to the township clerk and assessor or assessment commissioner, a map showing the zone boundaries and a description of each zone, and

(iii) to the chief executive officer of a divisional board or the appropriate supervisory officer for a public school board affected, a description of each separate school zone within the area of his jurisdiction.

Establishment of separate school in a portion of rural section

(2) Where a separate school has been established in a school section that includes an urban municipality or a portion of an urban municipality, and a township or a portion of a township, and a majority of the ratepayers assessed as separate school supporters in the township or portion of a township petition the board of the separate school to notify the supervisory officer of separate schools that the separate school supporters in the township or portion of a township are desirous of establishing a separate school therein, the supervisory officer may signify in writing to the board his approval of the establishment of the separate school, and thereupon a meeting may be held for the establishment of a separate school and the election of trustees, and the school may be established and trustees may be elected in the manner provided in section 83.

Arbitrate assets and liabilities

(3) Where a separate school zone is established and the boundaries of adjoining separate school zones are thereby altered, the board concerned shall, in the manner provided in subsection 5, appoint a board of arbitrators who shall determine the assets and liabilities of the boards and the amounts, if any, that shall be paid by one board to the other board, and the award of the board of arbitrators is final and binding.

Rates in unorganized territory in combined zone

(4) Where a combined separate school zone includes a former zone in territory without municipal organization and a former zone in a municipality, the combined separate school board is

responsible for the levying and collecting of rates for separate schools in the territory without municipal organization and the board and the council of the municipality may enter into an agreement providing for the officers of the municipality to levy and collect rates for separate schools in such territory without municipal organization. R.S.O. 1970, c. 430, s. 54 (11-13), *amended*.

Constitution of board of arbitrators

(5) The appropriate supervisory officer, a person chosen by the newly established board and a person chosen by each of the separate school boards, the boundaries of which have been altered, shall constitute a board of arbitrators. R.S.O. 1970, c. 430, s. 37 (2), *amended*.

Boundaries where zones overlap

82.—(1) Where two or more separate school zones would otherwise overlap in a township or in territory without municipal organization, the appropriate supervisory officers shall, after they have consulted with the boards involved, determine a boundary between each of the zones in the township or territory. R.S.O. 1970, c. 430, s. 55 (1).

Failure to make determination

(2) Where more than one supervisory officer is involved in the determination under subsection 1, and the supervisory officers fail to make a determination, the matter shall be referred to the judge by the board concerned that has the greatest equalized assessment for separate school purposes. *New*.

When alteration effective

(3) A boundary in the overlapping area may be altered before the 1st day of July in any year, and such alteration shall be effective on the 1st day of January of the following year, except that, for the purposes of the election of trustees, it shall be deemed to be effective on the day of nomination for trustees.

Appeal

(4) A separate school board or a separate school supporter affected by the determination of the supervisory officer may appeal the determination to the judge before the 1st day of August following the determination.

All parts of zone to be adjoining

(5) The boundaries of a separate school zone as determined by the supervisory officer or altered by a judge shall follow one continuous line so that all parts of the zone are adjoining.

Effect of change in boundaries

(6) Where a change in the boundary of a separate school zone under this section results in the transfer of a parcel of land from one zone to another zone, the taxes levied and collected for separate school support in respect of such parcel of land, in the year following the determination by the supervisory officer or judge, shall be paid to the separate

school board of the zone to which the parcel of land is transferred. R.S.O. 1970, c. 430, s. 55 (2-5).

Formation and Discontinuance of Zones

Meeting to establish separate school zone

83.—(1) Not fewer than five heads of families, being Roman Catholics and being householders or freeholders resident within a city, town, village, or a six-mile square area in one or more townships and not within an area designated by the regulations made under subsection 2 of section 103, may convene a public meeting of persons desiring to establish a separate school zone with centre therein. 1972, c. 76, s. 3, *amended*.

Procedure

(2) Where such a meeting is held, the persons present shall,

(*a*) elect a chairman and a secretary for the meeting;

(*b*) pass a motion determining the centre of the separate school zone to be established;

(*c*) where the zone to be established is in one or more townships, subject to clause *b* of subsection 5, select a name for the board;

(*d*) elect the required number of trustees; and

(*e*) require the chairman of the meeting to transmit notice in writing of the holding of the meeting and of the election of trustees to the clerks of the municipalities and to the chief executive officer of the divisional board or the secretary of the public school board, as the case may be, for the area in which the separate school zone is to be established designating by name and residence each of the persons elected as trustees. R.S.O. 1970, c. 430, s. 20 (1); 1972, c. 76, ss. 4 (1), *part*, 28, *part*, *amended*.

Certification

(3) Each of the officers receiving the notice shall certify thereon the date of its receipt, and shall transmit a copy of the notice so certified to the chairman of the meeting. *New*.

Notification

(4) The chairman of the meeting shall forthwith transmit the copy of the certified notice, a copy of the minutes of the meeting, and of the notice calling it, to,

(*a*) the Minister; and

(*b*) the appropriate assessment commissioner. 1972, c. 76, s. 4 (1), *part*, *amended*.

Corporate name

(5) On and after the transmission to the Minister of the

documents referred to in subsection 4, the separate school zone is established and the trustees named therein are a body corporate under the name,

(*a*) in the case of a city, town, or village, "The..... Roman Catholic Separate School Board" (*inserting the name of the city, town, or village, as the case may be*); or

(*b*) in the case of a portion of one or more townships, "The.....Roman Catholic Separate School Board" (*inserting the name selected under clause c of subsection 2 and approved by the Minister*). R.S.O. 1970, c. 430, s. 21 (3), *amended*.

In urban municipalities in wards

(6) Where a meeting is convened to establish a separate school in an urban municipality that is divided into wards, unless at such a meeting a motion is passed to elect trustees by wards in accordance with section 91, the trustees shall be elected by general vote. R.S.O. 1970, c. 430, s. 20 (2).

Formation not rendered invalid by reason only of vacancy in office of trustee

(7) The formation of a separate school is not rendered invalid by reason only of a vacancy in the office of a trustee occurring before the trustees become a body corporate, provided that the vacancy is filled forthwith and the Minister is provided with the information required under clause *e* of subsection 2 in respect of the filling of the vacancy.

Roman Catholic deemed separate school elector

(8) For the purpose of qualifying to be elected as a trustee at a meeting to establish a separate school zone, a Roman Catholic who is otherwise qualified under subsection 1 of section 192 is deemed to be a separate school elector. *New*.

New zone in unorganized territory

84.—(1) Not fewer than,

(*a*) ten heads of families; or

(*b*) where the zone is to be united, effective on the 1st day of January in the following year, with one or more separate school zones to form a combined separate school zone, five heads of families,

being Roman Catholics and being householders or freeholders resident within territory without municipal organization that is not within an area designated by the regulations made under subsection 2 of section 103 may convene a public meeting of persons desiring to establish a separate school zone therein, and the provisions of subsections 2, 3, 4 and 8 of section 83 apply *mutatis mutandis*.

Corporate name

(2) On and after the transmission to the Minister of the documents referred to in subsection 4 of section 83, the

separate school zone is established and the trustees named therein are a body corporate under the name of, "The .....Roman Catholic Separate School Board" (*inserting the name selected under clause c of subsection 2 of section 83 and approved by the Minister*).

Powers of trustees

(3) The trustees elected at a meeting convened under subsection 1 have all the powers of a public school board in territory without municipal organization and are in all other respects subject to the provisions of this Act that apply to rural separate school boards.

Where school not united

(4) Where in any year a separate school zone is established by not fewer than five heads of families under clause *b* of subsection 1, the public meeting for the election of trustees shall be held before the 1st day of June in that year, and the only powers and duties of the separate school board so formed are to proceed in the same year to implement the provisions of section 87, and if the separate school zone is not united with one or more separate school zones to form a combined separate school zone before the 1st day of August in that year under section 87, the board is dissolved on that date. R.S.O. 1970, c. 430, s. 22 (1-3); 1972, c. 76, s. 5, *amended*.

Right to vote in year of establishment of zone

85. A Roman Catholic who is a householder or freeholder and of the full age of eighteen years and who desires to establish a separate school zone under section 83 or 84 is entitled, in the year in which the separate school zone is established, to vote on any matter relating to such separate school if,

(*a*) in the case of a separate school zone in one or more townships or in territory without municipal organization, he resides in the separate school zone; or

(*b*) in the case of an urban municipality, he resides in the municipality. R.S.O. 1970, c. 430, s. 24; 1971, c. 98, s. 4, Sched., par. 31, *amended*.

Legislative grants

86. On receipt by the Minister of the documents required under section 83 or 84 that a separate school zone has been established and suitable accommodation provided for school purposes, the Minister may pay to the board out of the appropriation made by the Legislature for public and separate schools such sums as may be approved by the Lieutenant Governor in Council. R.S.O. 1970, c. 430, s. 22 (4), *amended*.

Formation of combined separate school zones in non-designated areas

87.—(1) A separate school board or five supporters of a separate school that is not within an area designated by the regulations made under subsection 2 of section 103 may,

before the 1st day of July in any year, hold a meeting of the supporters of such separate school to consider the question of uniting the separate school zone with one or more other separate school zones in such area to form a combined separate school zone and, where the majority of such supporters present at each such meeting who vote on the question, vote in favour of the union and of the adjustments referred to in subsection 2, each such board shall give notice of the decision, before the 1st day of August of the same year, to the Minister, the clerks of the municipalities affected, and the appropriate municipal assessors, and the combined separate school zone thus formed shall be deemed to be one zone for all Roman Catholic separate school purposes on the 1st day of January of the following year, except that, for the purposes of the election of trustees, it shall be deemed to be one zone on the day of nomination for trustees of the combined separate school board.

Adjustment of rights

(2) In order to adjust the rights and claims of the combining boards, the supporters of any school may offer to assume and may assume a differential in rates for a stated period of time.

Dissolution of boards

(3) When a combined separate school zone is formed, the board of each zone forming part of the union is dissolved, and all the real and personal property vested in such board is vested in the board of the combined separate school zone.

Corporate name of trustees

(4) The trustees of a combined separate school board are a corporation by the name of "The.....Combined Roman Catholic Separate School Board" (*inserting the name selected by the board and approved by the Minister*). R.S.O. 1970, c. 430, s. 34 (1-4), *amended*.

Detaching school zone from combined school zone

88.—(1) Where, in an area not designated by the regulations made under subsection 2 of section 103, a petition of ten heads of families, being householders or freeholders who are supporters of a combined separate school, to detach a separate school zone from the combined separate school zone is submitted in any year to the combined separate school board, the board shall provide for a vote on the question within ninety days of the receipt of the petition.

Qualified voters detaching a separate school zone from a combined separate school zone

(2) The persons entitled to vote on the question are the supporters of the combined separate school who reside closer to the centre in the portion of the combined separate school zone that it is proposed to detach than any other centre.

When school zone detached

(3) If, before the 1st day of July in any year, a majority of the supporters who are entitled to vote on the question vote in favour of detaching the zone it is detached on the

1st day of January of the following year, except that, for the purposes of the election of trustees, it shall be deemed to be detached on the day of nomination for trustees, and the requisite number of trustees of the separate school zone so detached shall be elected as provided in section 90 or 100, as the case may be.

Adjustment of assets, etc.

(4) Where a zone or zones is or are detached under this section, subsection 5 of section 81 applies *mutatis mutandis*, except that the combined separate school board and the board or boards of the zone or zones detached shall each appoint an arbitrator. R.S.O. 1970, c. 430, s. 35, *amended*.

Dis-continuing board by a vote of the supporters

89.—(1) In an area not designated by the regulations made under subsection 2 of section 103, a separate school board or five supporters of such board may, before the 1st day of July in any year, hold a meeting of the separate school supporters to consider the question of discontinuing the separate school board and, where the majority of the supporters vote in favour of discontinuing and fewer than five supporters vote in opposition, the board shall within thirty days notify the Minister, the clerk of each municipality concerned and the secretary of any school board that may be affected thereby and, for assessment purposes, the zone shall be discontinued on the 30th day of September following the meeting.

Other conditions under which a separate school board is dis-continued

(2) A separate school board is discontinued on the 31st day of December in any year,

(*a*) if, for any continuous four month period in a school year, after the year in which the board was established, the board,

(i) fails to operate a school, or

(ii) fails to make an agreement with another separate school board for the education of its pupils and fails to provide transportation for the pupils who would otherwise be excused from attendance under clause *c* of subsection 2 of section 20; or

(*b*) if no one is assessed as a separate school supporter in the separate school zone in relation to property in respect of which taxes are to be levied in the following year; or

(*c*) if the supporters fail to elect the required number of trustees in two successive regular elections.

(3) When a board is discontinued under subsection 2, the appropriate supervisory officer for separate schools shall forthwith notify the Minister, the clerks of the municipalities concerned and the secretaries of the public school boards affected thereby.

Settling accounts

(4) The trustees who are in office in the year in which the board is discontinued under this section shall remain in office for the purpose of settling the accounts and outstanding debts of the board and, following an audit by a person licensed by the Ministry of Treasury, Economics and Intergovernmental Affairs as a municipal auditor, shall forward the balance of its funds to the Minister for deposit in the Consolidated Revenue Fund for safekeeping.

Records

(5) The records of a board that has been discontinued under this section shall be filed with the Ministry.

Boundaries to be revised

(6) The boundaries of the zones that are altered as a result of discontinuing a separate school zone shall be revised by the appropriate supervisory officer.

Sale of real property

(7) Where a board that has been discontinued fails to dispose of its real property in the year in which it was discontinued and the appropriate separate school supervisory officer is notified that an offer to purchase the real property has been made, he shall cause notices to be posted to call a meeting of the persons who were supporters in the year in which the board was discontinued to elect three persons who, when elected, are a board for the purpose of selling the property.

Deposit of funds from sale

(8) When the board has sold the real property, it shall, after paying any outstanding debts, forward the balance of the money received from the sale to the Minister for deposit in the Consolidated Revenue Fund for safekeeping.

Re-establishing a board

(9) A separate school board that has been discontinued in any year may, in any subsequent year, be re-established in the manner provided in section 83 or 84, and the funds that were deposited by the board that was discontinued shall be returned to the board. R.S.O. 1970, c. 430, s. 56, *amended*.

Urban Separate Schools

Election of trustees in urban municipalities by general vote

90.—(1) Except as provided in section 91, the trustees of an urban separate school board shall be elected by general vote for a term of two years. R.S.O. 1970, c. 430, s. 38 (1); 1972, c. 76, s. 7.

Number of trustees

(2) The number of trustees on an urban separate school board shall be determined by the population of the municipality as follows, where the population was,

(*a*) less than 10,000, six trustees;

(*b*) 10,000 or more but less than 50,000, eight trustees;

(*c*) 50,000 or more but less than 100,000, ten trustees;

(*d*) 100,000 or more, twelve trustees.

Change in number of trustees

(3) Where it becomes evident from the census of a municipality that the number of trustees on an urban separate school board should be increased or decreased, at the next election of trustees the proper number of trustees shall be elected. R.S.O. 1970, c. 430, s. 38 (2, 3).

Urban municipality divided into wards

91.—(1) An urban separate school board for an urban municipality that is divided into wards may be composed of two trustees for each ward, elected by the separate school electors of that ward for a term of two years. R.S.O. 1970, c. 430, s. 39 (1); 1972, c. 76, s. 8.

Where five or more wards

(2) An urban separate school board for an urban municipality that is divided into five or more wards may be composed of one trustee for each ward, elected by the separate school electors of that ward for a term of two years.

Change from election by wards to general vote

(3) The composition and election of an urban separate school board that is elected as provided in subsection 1 or 2 may be changed to that provided in section 90. R.S.O. 1970, c. 430, s. 39 (2, 3).

Method of changing composition and election of board

92.—(1) The composition and election of an urban separate school board for an urban municipality that is divided into wards may be changed from the composition and election mentioned in any one of the subsections in section 91 to that provided in any other subsection in that section, provided that the resolution of the board for a change has been submitted to the electors of the separate schools of the urban municipality and has received the affirmative vote of a majority of the electors who voted on the resolution.

Election of new board after change

(2) At the election following an affirmative vote of a majority of the separate school electors who voted on the resolution, the proper number of trustees shall be elected, and the trustees then in office shall continue in office until their successors are elected and the new board is organized.

(3) A change in the method of election of an urban separate school board may not be made unless the board has been elected by the existing method for at least the two preceding regular elections. R.S.O. 1970, c. 430, s. 40, *amended*. Limitation on changing method of election

93.—(1) The election of trustees of an urban separate school board shall be conducted in the same manner as municipal elections. R.S.O. 1970, c. 430, s. 44 (1), *amended*. Conduct of elections

(2) In urban municipalities every person who is a separate school elector is entitled to vote at the election of trustees of the separate schools. R.S.O. 1970, c. 430, s. 46, *amended*. Election of trustees, who may vote

94. *The Municipal Elections Act, 1972* applies *mutatis mutandis* to the election of trustees of an urban separate school board, except that the oath to be taken by a voter shall be: Application and form of oath 1972, c. 95

> You swear that you are the person named (*or* intended to be named) in the list of voters now shown to you (*showing the list to the voter*);
>
> That you are of the full age of eighteen years;
>
> That you are a Roman Catholic separate school elector;
>
> That you have not voted before at this election;
>
> That you have not, directly or indirectly, received any reward or gift and do not expect to receive any for the vote which you tender at this election;
>
> So help you God.

R.S.O. 1970, c. 430, ss. 44 (4) (*e*), 45; 1971, c. 98, s. 4, Sched., par. 31; 1972, c. 76, s. 10 (2), *amended*.

95. Notwithstanding the provisions of this or any other Act, including *The Metropolitan Separate School Board Act, 1953*, a Roman Catholic who is not an owner or tenant as defined in *The Municipal Elections Act, 1972* but who, Residents other than supporters entitled to vote 1953, c. 119

(*a*) is a Canadian citizen or other British subject;

(*b*) is of the full age of eighteen years; and

(*c*) resides within a separate school zone,

and who wishes to be a separate school elector at an election may cause his name to be entered on the preliminary list of electors of the polling subdivision in which he resides as a separate school elector, and for such purpose is entitled to be enumerated as such and to have entered opposite his name on the preliminary list of electors for the polling subdivision in which he resides that he is a separate school elector and,

where the name of such person appears on the polling list, he shall be deemed to be a separate school elector for the purpose of voting at such election. 1972, c. 76, s. 11.

Where person residing out of urban municipality to vote

96. When a supporter of a separate school in an urban municipality resides outside the municipality, he is entitled to vote in the ward or polling subdivision in which the separate school nearest to his residence is situate. R.S.O. 1970, c. 430, s. 57.

Rural Separate Schools

Trustees' term of office

97.—(1) The board of a rural separate school shall consist of three trustees who, subject to subsection 3, shall be elected in the year 1974 and in every second year thereafter and shall hold office for two years. R.S.O. 1970, c. 430, s. 26, *amended*.

Term of office

(2) All trustees of a rural separate school board who hold office when the new board is organized in the year 1974 shall cease to hold office on the 31st day of December, 1974.

Where first election held in 1975

(3) Where the first election of a newly-established board is held in 1975 or in any second year thereafter, the trustees elected in such year shall hold office for one year. *New*.

Organization and quorum

(4) A majority of the trustees is a quorum, and the board shall be organized by the election of a chairman and by the appointment of a secretary and a treasurer or of a secretary-treasurer. R.S.O. 1970, c. 430, s. 30.

Regularity

(5) No act or proceeding is valid that is not adopted at a regular or special meeting of the board of which notice has been given as required under section 98 and at which at least two trustees are present. R.S.O. 1970, c. 430, s. 31.

Electors, qualifications

(6) Every householder or freeholder of the full age of eighteen years, who is a Canadian citizen or other British subject and who is a supporter of a rural separate school, is entitled to vote at any election for school trustee or on any school question at any annual or special meeting of the supporters of the school. R.S.O. 1970, c. 430, s. 28 (1); 1971, c. 98, s. 4, Sched., par. 31, *amended*.

Idem

(7) Every person who is a Roman Catholic and is the spouse of a supporter of a rural separate school who is entitled to vote under subsection 6, and where elections are held under *The Municipal Elections Act, 1972*, every person who is a separate school elector in the area of jurisdiction of the

1972, c. 95

board of such school, is entitled to vote at the election of trustees of such school and on any question submitted to a meeting of the supporters, except a question involving the selection of a school site or an expenditure for a permanent improvement. R.S.O. 1970, c. 430, s. 28 (2), *amended*.

Duties of rural boards:

98.—(1) It is the duty of every rural separate school board and it has power,

time and place of meetings

(*a*) to appoint the place of each annual school meeting of the supporters of the school, and the time and place of any special meeting for,

(i) filling any vacancy in the board,

(ii) the selection of a new school site,

(iii) the appointment of a school auditor, or

(iv) any other school purpose,

and to cause notices of the time and place and of the objects of such meetings to be posted in three or more public places of the neighbourhood in which the school is situate at least six days before the time of holding the meeting;

annual report

(*b*) to cause to be prepared and read at the annual school meeting a report for the year then ending, containing among other things a summary of the proceedings of the board during the year, together with a full and detailed account of the receipts and expenditures of all school moneys during such year, and signed by the chairman and by one or both of the school auditors. R.S.O. 1970, c. 430, s. 50 (3) (*a*, *c*).

Appointment of auditor by the Minister

(2) Where a rural separate school board neglects or the supporters at an annual or special meeting neglect to appoint an auditor, or an auditor appointed refuses or is unable to act, the Minister, upon the request in writing of any five supporters of the school, may make the appointment. R.S.O. 1970, c. 430, s. 33, *amended*.

Appointment of collector

99.—(1) A separate school board in territory without municipal organization may appoint a person, who may be one of the trustees, to collect the rates imposed upon the supporters of the school or the sums that the inhabitants or others have subscribed or a rate-bill imposed upon any person and may pay to the collector at the rate of not less than 5

and not more than 10 per cent on the money collected by him, and every collector shall give such security as may be required by the board.

Powers and duties of collectors

(2) Every collector has the same powers in collecting the school rate, rate-bill or subscription and is under the same liabilities and obligations and shall proceed in the same manner as a township collector in collecting rates in a township and subsections 6, 7, 8, 9 and 10 of section 65 apply *mutatis mutandis*. R.S.O. 1970, c. 430, s. 22 (5, 6), *amended*.

Annual meeting

100.—(1) A meeting of the supporters of a rural separate school for the purpose of electing trustees and for any other school purpose shall be held annually on the last Wednesday in December or, if that day is a holiday, on the next day following, commencing at the hour of 10 o'clock in the forenoon, or if the board by resolution so directs, at the hour of 1 o'clock or 8 o'clock in the afternoon, at such place as the board by resolution determines or, in the absence of such resolution, at the separate school.

Idem

(2) Where the annual meeting of supporters of the school cannot conveniently be held as provided for in subsection 1, the supporters, at a regular meeting or at a special meeting called for that purpose, may pass a resolution naming another day for the holding of the annual meeting, which shall be held on that day in each year thereafter until some other day is similarly named.

Organization of meeting

(3) The supporters of the school present at the meeting shall elect one of themselves to preside over its proceedings and shall also appoint a secretary who shall record the proceedings of the meeting and perform such other duties as are required of him by this section.

Order of business

(4) The business of the meeting may be conducted in the following order,

(*a*) receiving and dealing with the annual report of the trustees;

(*b*) receiving and dealing with the annual report of the auditors;

(*c*) appointing one or more auditors for the current year;

(*d*) electing a trustee or trustees to fill any vacancy or vacancies; and

(*e*) miscellaneous business.

(5) The presiding officer shall submit all motions to the meeting in the manner desired by the majority, and is entitled to vote on any motion, and, Duties of presiding officer

(*a*) in the case of an equality of votes with respect to the election of two or more candidates, the presiding officer shall provide for drawing lots to determine which of the candidates is elected; and

(*b*) in the case of an equality of votes on a motion, the motion is lost.

(6) Where a poll is demanded by two supporters of the school at a meeting for the election of a trustee, the presiding officer shall forthwith grant the poll. Granting poll and proceedings in case of a poll

(7) Where a poll is granted, the secretary shall enter in a poll book the name and residence of each qualified supporter of the school offering to vote within the time prescribed and shall furnish him, at the time of voting, with a ballot paper on the back of which he has placed his initials, and shall provide a pencil for the marking of the ballot paper. Entries in poll book

(8) Ballot papers shall be pieces of plain white paper of uniform size. Form of ballot paper

(9) A voter shall mark his ballot, Marking of ballot paper

(*a*) in the election of a trustee, by marking the name of the trustee thereon; and

(*b*) on a question, by marking the word "for" or "against" thereon.

(10) Each voter shall mark his ballot paper in a compartment or other place provided for the purpose that is so arranged that the manner in which he marks his ballot is not visible to other persons and shall thereupon fold it so that the initials of the secretary can be seen without opening it and hand it to the secretary who shall, without unfolding it, ascertain that his initials appear upon it and shall then in full view of all present, including the voter, place the ballot in a ballot box or other suitable container that has been placed and is kept upon a table for the purpose. Manner of voting

(11) Every candidate may appoint a person to act as his scrutineer during the election. R.S.O. 1970, c. 430, s. 29 (1-11), *amended*. Appointment of scrutineer

Declaration where right to vote objected to

(12) When an objection is made to the right of a person to vote at an annual or special meeting, either for trustee or upon a school question, the presiding officer shall require the person whose right to vote is objected to to make the following declaration, whereupon the person making the declaration is entitled to vote:

I, ..., declare,

(*a*) that I am a Roman Catholic and a householder or freeholder assessed to the support of ..... or
(*insert name of board*)

(*b*) that I am a Roman Catholic and the spouse of a supporter of ..... ; and
(*insert name of board*)

(*c*) that I am of the full age of eighteen years; and

(*d*) that as such supporter or spouse of a supporter I have the right to vote at this meeting.

R.S.O. 1970, c. 430, s. 29 (12); 1971, c. 98, s. 4, Sched., par. 31, *amended*.

When poll shall close

(13) The poll shall not close before noon, but shall close at anytime thereafter when a full hour has elapsed without any vote being polled, and shall not be kept open later than 4 o'clock in the afternoon.

Polling at afternoon meetings

(14) When the meeting is held at 8 o'clock in the afternoon the supporters present may decide by resolution that the polling shall take place forthwith or at 10 o'clock on the following morning, and if it takes place forthwith the poll shall close when ten minutes have elapsed without any vote being recorded.

Counting votes, tie vote

(15) When the poll is closed, the presiding officer and secretary shall count the votes polled for the respective candidates or affirmatively and negatively upon the question submitted, and,

(*a*) in the case of an equality of votes with respect to the election of two or more candidates, the presiding officer shall provide for drawing lots to determine which of the candidates is elected; and

(*b*) in the case of an equality of votes on a motion, the motion is lost.

Declaration of result

(16) In the case of an election of trustees, the presiding officer shall then declare the candidate elected for whom the highest number of votes has been polled, and in case of a vote on a motion he shall declare it carried or lost as the majority of votes is in favour of or against the motion.

(17) A statement of the result of the vote shall be certified by the presiding officer and secretary and in the case of an election of trustees the statement shall be signed by any scrutineers present at the counting of the ballots and a copy thereof shall be delivered to each candidate. Statement of result of poll

(18) A correct copy of the minutes of every meeting, signed by the presiding officer and secretary of the meeting, shall be transmitted forthwith by the secretary to the Ministry. Secretary to transmit minutes to Ministry

(19) If from want of proper notice or other cause any meeting for the election of trustees is not held at the proper time, the appropriate separate school supervisory officer or any two supporters of the school may call a meeting by giving six days notice posted in at least three of the most public places in the locality in which the school is situate. R.S.O. 1970, c. 430, s. 29 (13-19), *amended*. Meetings called in default of first or annual meeting

(20) No election under this section is invalid by reason of non-compliance with the provisions of this section as to the taking of the poll or the counting of the votes, or by reason of any mistake in the use of forms, or of any irregularity, if it appears that the election was conducted in accordance with the principles laid down in this section, and that the non-compliance or mistake or irregularity did not affect the result of the election. R.S.O. 1970, c. 430, s. 47. Validity of election

Combined Separate Schools

101.—(1) Where a combined separate school zone is formed or where another separate school zone is added to or detached from a combined separate school zone, the trustees in office shall retire on the 1st day of January following the election of trustees of the combined separate school zone and, subject to subsection 5, five trustees shall be elected by the supporters of the newly-created or altered combined separate school zone as provided in section 100, who shall hold office for two years and otherwise the provisions of section 97 apply. R.S.O. 1970, c. 430, s. 34 (6), *amended*. Trustees

(2) Every trustee shall continue in office until his successor has been elected and the new board is organized. R.S.O. 1970, c. 430, ss. 34 (7), *part*, 42. Trustee in office until organization of new board

(3) For the purpose of electing the first trustees for a combined separate school zone, the boards of the separate schools forming the combined separate school zone shall, before the 1st day of December, each appoint a person to a committee, which shall arrange for the election of trustees in accordance with section 93 or 100, as the case may be. R.S.O. 1970, c. 430, s. 34 (5), *amended*. First trustees

Trustees in combined separate school zone including urban municipality

(4) Where a combined separate school zone includes one or more urban municipalities, the board shall be composed of the same number of trustees as the separate school board of the urban municipality having the greatest population would have under section 90 and the board shall be deemed to be an urban board and the zone shall be deemed to be an urban combined separate school zone.

Resolution providing for trustees

(5) Notwithstanding subsections 1 and 4, the board of a combined separate school zone may be composed of such number of trustees, not fewer than five or more than nine, representing such municipalities or parts thereof, or separate school zones in territory without municipal organization, within the combined separate school zone as is provided for in a resolution passed by the board, or, in the case of a newly-formed combined separate school zone, by the committee formed under subsection 3, and the board of the combined separate school zone shall be deemed to be an urban separate school board.

Election and term of office

(6) Where a resolution is passed under subsection 5, the trustees shall be elected at large in the areas within the combined separate school zone that they respectively represent, and sections 93, 94 and 95 apply *mutatis mutandis*, provided that, where a municipality is divided into wards, the resolution may provide for representation by wards.

Voters list for areas in combined zone

(7) Where one or more trustees represent two or more municipalities or parts thereof, or two or more municipalities or parts thereof and one or more separate school zones in territory without municipal organization, and the election is conducted under section 93, the provisions of subsection 21 of section 110 apply *mutatis mutandis*.

Copy of resolution to be sent to Minister

(8) The board or committee that passes a resolution under subsection 5 shall forthwith send a copy thereof to the Minister. R.S.O. 1970, c. 430, s. 34 (10-14), *amended*.

Electors' qualifications, urban combined separate school zone

(9) Every person,

(*a*) who resides in an urban municipality in an urban combined separate school zone and is entitled to vote at the election of trustees under section 94; or

(*b*) who resides in a township or territory without municipal organization in an urban combined separate school zone and would be entitled to vote at the election of trustees under section 97 if the combined separate school zone were a rural separate school zone,

is entitled to vote at the election of trustees of the combined separate school zone and on any school question.

(10) Every person who resides in a rural combined separate school zone and is entitled to vote at the election of trustees under section 97 is entitled to vote at the election of trustees of the combined separate school zone and, subject to subsection 7 of section 97, on any school question. R.S.O. 1970, c. 430, s. 34 (16, 17), *amended*. Electors' qualifications, rural combined separate school zone

Duties and Powers of Separate School Boards

102.—(1) It is the duty of a separate school board and it has power, Duties of board:

(*a*) to appoint, where required, one or more collectors of school fees or rate-bills, who may be members of the board, and who shall discharge all duties, have powers similar to those of like officers of a municipality, and be subject to the obligations of and the penalties applicable to such officers; appointment of officers

(*b*) where the board does not appoint a collector, to apply to the municipal council, on or before the 1st day of March in each year, for the levying and collecting of all rates for the support of their schools, and for any other school purposes authorized by this Act to be collected from the supporters of the separate schools under the control of the board; collection of rates

(*c*) to appoint annually on or before the 1st day of December an auditor or auditors; appointment of auditors

(*d*) to lay all the accounts of the board before the auditors, together with the agreements, vouchers, contracts and books in its possession, and to afford the auditors all the information in its power as to the receipt and expenditure of school money; and accounts

(*e*) to exercise all such other powers and perform all such other duties of boards as are applicable to public school boards, except where otherwise expressly provided in this Act. R.S.O. 1970, c. 430, s. 50 (1), *part*; 1971, c. 70, s. 2, *amended*. other powers and duties

(2) A separate school board may establish and maintain programs and courses of study in religious education for pupils in all schools under its jurisdiction. *New*. Religious education

County and District Combined Roman Catholic Separate School Zones

103.—(1) On and after the 1st day of January, 1969, the separate school zones and the former separate school zones that form all or part of a combined separate school zone whose centres are within an area designated by the regulations made under subsection 2 are united to form County and district combined separate school zones

a county or district combined separate school zone, as the case may be.

Regulations

(2) The Lieutenant Governor in Council may make regulations,

(*a*) designating areas in Ontario in which the separate school zones whose centres are within the areas are to be united to form county or district combined separate school zones and designating the names of the areas;

(*b*) altering the boundaries of any such area;

(*c*) respecting any matter necessary or advisable to carry out effectively the intent and purpose of sections 103 to 115. R.S.O. 1970, c. 430, s. 81 (1, 2).

Establishment of boards

(3) A separate school board shall be established for each county and district combined separate school zone, and the trustees of the board shall be elected and the board organized in accordance with sections 110 to 112. R.S.O. 1970, c. 430, s. 84.

Separate school zones established after January 1, 1969

(4) Where the centre of a separate school zone established on or after the 1st day of January, 1969, is within an area designated by the regulations made under subsection 2, the separate school zone shall forthwith become a part of the county or district combined separate school zone in that area. R.S.O. 1970, c. 430, s. 81 (3); 1972, c. 76, s. 27, *amended*.

Meeting to establish separate school zone in designated area

104.—(1) Not fewer than five heads of families, being Roman Catholics and being householders or freeholders resident within a six-mile square area in an area designated by the regulations made under subsection 2 of section 103, may convene a public meeting of persons desiring to establish a separate school zone with its centre therein.

Procedure

(2) Where such a meeting is held, the persons present shall,

(*a*) elect a chairman and a secretary for the meeting;

(*b*) pass a motion determining the centre of the separate school zone to be established; and

(*c*) require the chairman of the meeting to send a copy of the motion to,

(i) the Minister,

(ii) the secretary of the county or district combined separate school board,

(iii) the secretary of the divisional board of education affected, and

(iv) the appropriate assessment commissioner,

and on and after the transmission to the Minister of a copy of the notice calling the meeting, a copy of the motion, and evidence that the persons required to be notified under clause *c* have been so notified, the separate school zone is established and becomes a part of the county or district combined separate school zone.

Trustees not elected at meeting

(3) No trustees shall be elected at the meeting. 1972, c. 76, s. 28, *part, amended*.

Zone deemed formed

105. Where a county or district combined separate school board acquires a site under subsection 3 of section 168 and operates a school on such site, a separate school zone having its centre as provided in subsection 2 of section 80 is deemed to have been established under subsection 2 of section 104 on the date on which final approval in respect of the construction or purchase of the school is given by the Minister for the purposes of legislative grant. 1972, c. 76, s. 28, *part, amended*.

Arbitration where boundaries of designated areas are altered

106.—(1) Where, on and after the 1st day of January, 1971, the boundaries of an area designated by the regulations under subsection 2 of section 103 are altered to include,

(*a*) one or more separate school zones established under section 83; or

(*b*) part or all of one or more separate school zones that form part or all of another county or district combined separate school zone,

each of the boards concerned shall appoint one arbitrator who, subject to subsection 2, shall forthwith value and adjust in an equitable manner the assets and liabilities of the boards affected by the alteration of the boundaries and the decision of the arbitrators is final and binding upon the boards concerned.

Appointment of additional arbitrator

(2) Where the number of arbitrators appointed under subsection 1 is an even number, the arbitrators so appointed shall appoint an additional arbitrator. *New*.

Referral to judge

(3) Where a majority of the arbitrators appointed under subsections 1 and 2 is unable to reach a decision on any matter, such matter shall be referred by the arbitrators to the judge whose decision is final. R.S.O. 1970, c. 430, s. 86 (5), *amended*.

Alteration of boundaries; disposition of assets and liabilities

107.—(1) Where the boundaries of an area designated by the regulations under subsection 2 of section 103 are altered, all lands and premises that,

(*a*) are situate in a municipality or part thereof or territory without municipal organization that is added to the designated area by such alteration;

(*b*) are used as separate schools on the last school day preceding the effective date of such alteration; and

(*c*) immediately prior to the effective date of such alteration are vested in a separate school board,

shall, on and after such effective date, be vested without compensation, but subject to all existing debts, contracts, agreements and liabilities that pertain to such lands and premises, in the county or district combined separate school board for the designated area to which the municipality or part thereof or territory without municipal organization is added, and the separate school boards concerned shall agree upon the disposition of all other property situate upon, or used in connection with, such lands and premises.

Dispute

(2) Any dispute as to the disposition of property under subsection 1 may be referred by one or more of the boards concerned to the Ontario Municipal Board, which shall determine the matters in dispute and its decision is final.

Employment contracts

(3) The employment contract of every employee of a separate school board who, immediately before the effective date of the alteration of the boundaries of an area designated by the regulations under subsection 2 of section 103 was required to perform his duties in a separate school that is vested under subsection 1 in the county or district combined separate school board for such designated area becomes an obligation of such county or district combined separate school board.

Transfer of trustee

(4) Subject to subsection 8, where one or more municipalities are detached from an area designated by the regulations under subsection 2 of section 103 and attached to an adjoining designated area and one trustee of the county or district combined separate school board for the designated area from which the municipality or municipalities are detached resides in one such municipality and was elected by the separate school electors of such municipality, whether or not the municipality was combined with one or more other municipalities for election purposes, such trustee shall, on the effective date of the attaching of the municipality or municipalities cease to be a trustee of the separate school board to which he was elected and shall on such date and for the remainder of his term of office be deemed,

(*a*) to have been elected by separate school electors of the county or district combined separate school board for the designated area to which the municipality in which he resides is attached; and

(*b*) to represent on such board the separate school electors of the municipality in which he resides and of the other municipality or municipalities, if any, that were combined therewith for election purposes under subsection 8 of section 110 at the time of his election and that are also attached to such designated area,

and for such period the municipality or combined municipalities so attached shall be deemed to have been determined under subsection 8 of section 110 as a municipality or combination of municipalities, as the case may be, to be represented by one trustee.

Number of trustees reduced

(5) Where one or more municipalities are detached from an area designated by the regulations under subsection 2 of section 103 and the number of trustees of the county or district combined separate school board for such area is reduced pursuant to subsection 4, for the remainder of the term of the board the number of trustees who remain on the board shall be deemed to be the number determined under subsection 2 of section 110.

Trustee to represent transferred area

(6) Subject to subsection 8, where a municipality or part thereof or territory without municipal organization is detached from an area designated by the regulations under subsection 2 of section 103 and attached to an adjoining designated area or area of jurisdiction of an urban separate school board, on the effective date thereof and for the remainder of the term of office of the separate school board for the area that is enlarged, the separate school electors in such municipality or part or territory without municipal organization shall be represented by the trustee or trustees of the separate school board last elected in,

(*a*) the municipality, combination of municipalities or part or parts thereof or territory without municipal organization in the designated area; or

(*b*) the ward established for election of one or more trustees of the urban separate school board,

that adjoins such attached municipality or part or territory without municipal organization, but this subsection does not apply to the municipality or municipalities that will be represented by a trustee by virtue of subsection 4.

Determination of trustee representation by enlarged board

(7) Subject to subsection 8, where a municipality or part thereof or territory without municipal organization that is attached to a designated area adjoins two or more municipalities in the designated area that are not combined for the purpose of electing one or more trustees, the county or district combined separate school board for the area that is enlarged shall, by resolution, determine the trustee or trustees who, for the remainder of the term of office of the board, shall represent the municipality or part or territory without municipal organization that is attached to the designated area, but this subsection does not apply to the municipality or municipalities that will be represented by a trustee by virtue of subsection 4.

Application of subss. 4, 6, 7

(8) Subsections 4, 6 and 7 do not apply where a regular election of the board is to be held before the effective date on which the municipality or municipalities or part or parts thereof or territory without municipal organization is attached.

Area added to Scarborough to be under Metropolitan Separate School Board
1973, c. 48

(9) The area added to the Borough of Scarborough by section 5 of *The Municipality of Metropolitan Toronto Amendment Act, 1973*, shall, on and after the 1st day of January, 1974, be part of the district of which the separate schools are administered by The Metropolitan Separate School Board. 1973, c. 117, s. 2.

Name of board in one county

108.—(1) A county combined separate school board that has jurisdiction in an area that includes only one county is a corporation by the name of "The..... County Roman Catholic Separate School Board" (*inserting the name of the county*). R.S.O. 1970, c. 430, s. 85 (1).

Name of county combined board

(2) A county combined separate school board that has jurisdiction in an area that includes two or more counties, or one county and a defined city is a corporation by the name of "The.....County Roman Catholic Separate School Board" (*inserting the names of the counties, the name of the city and of the county or a name selected by the board and approved by the Minister*). 1972, c. 76, s. 29.

Name of board in territorial districts

(3) A district combined separate school board that has jurisdiction in the territorial districts is a corporation by the name of "The.....Roman Catholic Separate School Board" (*inserting the name of the area designated by the regulations*).

Name of board in regional municipality

(4) Notwithstanding subsections 2 and 3 and except as provided in sections 114 and 115, a combined separate school board that has jurisdiction in all or part of a regional municipality is a corporation by the name of "The..... Roman Catholic Separate School Board" (*inserting a name selected by the board and approved by the Minister*). R.S.O. 1970, c. 430, s. 85 (3, 4).

109.—(1) For district combined separate school purposes, every separate school zone that comprises only territory without municipal organization and whose centre is in an area designated by the regulations made under subsection 2 of section 103, and any part of territory without municipal organization that is part of a combined separate school zone whose centres are in an area designated by the regulations made under subsection 2 of section 103, shall be deemed to be a district municipality. R.S.O. 1970, c. 430, s. 80 (3).

Territory without municipal organization in zones deemed district municipalities

(2) The board of a district combined separate school zone that includes territory without municipal organization that is deemed a district municipality for separate school purposes shall exercise the powers and duties of a municipal council for such district municipality in respect of preparing estimates, levying rates, collecting taxes and issuing debentures for the purposes of the district combined separate school board and in respect of the preparation of a list of voters and the election of members of such board, and all the officers appointed by such board have the same powers and duties as similar officers in an organized municipality except that the provisions of subsections 5 to 11 of section 65 apply *mutatis mutandis*, and the expenses incurred by the board in connection therewith except the issuing of debentures shall be raised by a levy imposed by the district combined separate school board on all property rateable for separate school purposes in such district municipality. R.S.O. 1970, c. 430, s. 80 (6), *amended*.

Powers and duties of combined board re territory without municipal organization

(3) In respect of territory without municipal organization referred to in subsection 2 that is part of a school division, the secretary of the board of the school division shall exercise the powers and perform the duties of the clerk of a municipality under subsections 2*a* to 2*l* of section 516 of *The Municipal Act* for the purposes of the district combined separate school board. 1972, c. 137, s. 4 (2).

Duties of secretary of board re school support

R.S.O. 1970, c. 284

(4) The secretary-treasurer of an improvement district that forms part of a district combined separate school zone, in each year in which an election for members of the district combined separate school board is to be held, shall provide for such election in the improvement district in the same manner as for the election of trustees in a municipality, and the secretary-treasurer of the improvement district shall be the clerk and returning officer and has all the powers and shall perform all the duties of the clerk and returning officer of a municipality in relation to the election of members of a district combined separate school board under *The Municipal Elections Act, 1972*. R.S.O. 1970, c. 430, s. 80 (7); 1972, c. 76, s. 26 (3), *amended*.

Election in improvement district

1972, c. 95

Interpretation

110.—(1) In this section,

(*a*) "equalized residential and farm assessment" means the residential and farm assessment referred to in clause *b*, as adjusted by the latest assessment equalization factor applicable thereto that is provided by the Minister;

(*b*) "residential and farm assessment" means the residential and farm assessment upon which taxes are levied in the year in which a determination is made or the year in which nominations are held, as the case may be. R.S.O. 1970, c. 430, s. 90 (1); 1972, c. 76, s. 30 (1).

Composition of board

(2) Subject to subsection 4 and except where otherwise expressly provided, the number of trustees of a combined separate school board shall be determined by the population of the county or counties or of the area municipalities in a regional municipality in the county combined separate school zone, and the number of trustees of a district combined separate school board shall be determined by the population of the municipalities all or part of which are included in the district combined separate school zone, as the case may be, as follows, where the population is,

(*a*) less than 25,000, eight trustees;

(*b*) 25,000 or more but less than 45,000, ten trustees;

(*c*) 45,000 or more but less than 100,000, twelve trustees;

(*d*) 100,000 or more but less than 200,000, fourteen trustees;

(*e*) 200,000 or more, sixteen trustees.

Change in numbers of trustees

(3) Where it becomes evident from the population of the county or counties in a county combined separate school zone or of the municipalities all or part of which are in a district combined separate school zone that the number of trustees of the board should be increased or decreased in accordance with subsection 2, at the next regular election of trustees the proper number of trustees shall be elected.

Number of trustees to be elected in a combined zone

(4) In a county or district combined separate school zone, the number of trustees to be elected by the separate school electors,

(*a*) of each city shall be equal to the product, correct to the nearest integer, the fraction one-half being raised to the next higher integer, obtained by multiplying the number of trustees determined under subsection 2 by the ratio of the equalized residential and farm assessment of the property rateable for separate school purposes in the city to the equalized residential and farm assessment of all the property rateable for separate school purposes in the county or district combined separate school zone; and

(*b*) of the county or district municipalities or the parts thereof shall be the number of trustees determined under subsection 2 less the total number of trustees determined under clause *a* for the city or cities, but in no case shall the number of trustees to be elected under this clause be fewer than one.

Determination under subs. 4 who to make

(5) The clerk of the county municipality or the clerk of the organized district municipality, as the case may be, or where there is no organized district municipality in the district combined separate school zone, the clerk of the city, having the greatest equalized residential and farm assessment for separate school purposes in a county or district combined separate school zone, shall make the determination required under subsections 2, 3 and 4, and shall, before the 1st day of September in the year of the determination, send by registered mail to the clerk of each city and of each county or district municipality in the combined separate school zone and to the secretary of the county or district combined separate school board, a copy of the determination.

When determination to be made

(6) Before the 1st day of September in the year in which an election is to be held, a determination shall be made under subsection 4,

(*a*) if it is determined under subsection 3 that the number of members of the county or district combined separate school board should be increased or decreased or if the boundaries of the county or district combined separate school zone have been altered, or are to be altered, effective the 1st day of January next following the election;

(*b*) if,

(i) the boundaries of one or more cities within the county or district combined separate school zone have been altered or a new city has been erected in the county or district combined separate school zone subsequent to the latest

determination made under subsection 4 that did not take into account the altered boundaries or the new city, or

(ii) the boundaries of one or more cities within the county or district combined separate school zone are to be altered or a new city is to be erected effective the 1st day of January of the year next following the election; and

(*c*) in every fourth year following the latest determination under subsection 4,

and, subject to subsection 15, a determination made under subsection 4 is effective until a new determination is required in accordance with this subsection.

Where a city does not qualify for at least one trustee

(7) Where a city is not entitled to one or more trustees under clause *a* of subsection 4, the city shall be deemed to be a county or district municipality for the purposes of subsection 4 or 8, and the clerk of the city shall be deemed to be a clerk of a county or district municipality for the purposes of subsection 8.

Distribution of trustees to be elected in county or district municipalities in combined zone

(8) With respect to the county municipalities in a county combined separate school zone and the district municipalities in a district combined separate school zone, the clerks of the three county municipalities or the clerks of the three organized district municipalities, as the case may be, having successively the greatest equalized residential and farm assessment for separate school purposes in the combined separate school zone, and where there are fewer than three organized district municipalities in the district combined separate school zone, the clerks of all such municipalities, shall determine, before the 1st day of September in each year in which,

(*a*) a determination is made in accordance with subsection 6; or

(*b*) an election is to be held and the boundaries of one or more county or district municipalities have been altered subsequent to the latest determination under this subsection, or are to be altered effective on or before the 1st day of January next following the election,

the county or district municipality or municipalities to be represented by each trustee to be elected in the county or district municipalities in the combined separate school zone, but in no case where two or more trustees are to be elected

in the county or district municipalities shall the determination under this subsection provide for a trustee to be elected by a general vote of all the separate school electors of the county or district municipalities, and such determination is effective until a new determination is required under this subsection. R.S.O. 1970, c. 430, s. 90 (2-8), *amended*.

Distribution of members within combined municipalities

(9) Where two or more county municipalities that are not in a regional municipality are combined under subsection 8 for the election of two or more trustees and one of the combined municipalities has a population in excess of 75,000, the clerks of such combined municipalities may, before the 15th day of September in any year in which a determination is made under subsection 8, determine that a portion of a county municipality that is so combined be attached to one or more of the other county municipalities in the combination of municipalities for the election of one or two trustees and, where the clerks of such combined municipalities so determine,

(*a*) the number of trustees to be elected in the combined municipalities shall be apportioned among the combined areas formed under this subsection and the remainder, if any, of the county municipality, as nearly as is practicable in the proportion that the equalized residential and farm assessment of the property rateable for separate school purposes in each such combined area and in the remainder, if any, of the county municipality, bears to the total equalized residential and farm assessment of the property rateable for separate school purposes in the combined municipalities; and

(*b*) where the remainder of the county municipality is to be represented by two or more trustees, subsections 17 and 18 apply *mutatis mutandis* in respect of such remainder.

Appeal from determination under subs. 9

(10) Where the determination made under subsection 9 apportions to a combined area or to the remainder of a county municipality a percentage of the total number of trustees to be elected in the combined municipalities as determined under subsection 8 that differs by more than five percentage points from the percentage that the equalized residential and farm assessment of the property rateable for separate school purposes in the combined area or in the remainder of the county municipality, as the case may be, is of the total equalized residential and farm assessment of the property rateable for separate school purposes in the combined municipalities, the council of a municipality all or part of which is in the combined area or part of which forms such remainder, as the case may be,

may, within fifteen days after notice of such determination has been sent, appeal the determination to the judge who shall either reapportion the number of trustees in accordance with clause *a* of subsection 9 or, where he determines that the determination was made in accordance with such clause, confirm the determination, and his decision is final. 1972, c. 76, s. 30 (2).

Where judge to make determination

(11) Where the determination under subsection 8 is not made before the 1st day of September, the clerk of the county municipality or of the district municipality, as the case may be, having the greatest equalized residential and farm assessment for separate school purposes in the combined separate school zone, shall refer the matter to the judge, who shall make the determination before the 1st day of October in accordance with subsection 13, and his decision is final. R.S.O. 1970, c. 430, s. 90 (9).

Municipal clerk from each county to be on committee under subs. 8

(12) Where the separate school zones in two or more counties are combined to form a county combined separate school zone, and where the three clerks designated under subsection 8 do not include a clerk from each county in the county combined separate school zone, the clerk of the county municipality having the greatest equalized residential and farm assessment for separate school purposes in each such county not so represented shall act together with the clerks designated under subsection 8. R.S.O. 1970, c. 430, s. 90 (10); 1972, c. 76, s. 30 (3).

Determination

(13) In determining under subsection 8,

(*a*) the number of trustees to be elected by the separate school electors of a county or district municipality; or

(*b*) the county or district municipalities that are to be combined for the election of one or more trustees by the separate school electors of such municipalities,

the clerks of the county or district municipalities, as the case may be, shall apportion the number of trustees determined for a combined separate school zone under clause *b* of subsection 4, as nearly as is practicable, in the proportion that the equalized residential and farm assessment of the property rateable for separate school purposes in the part of such zone in the municipality or combined municipalities bears to the total equalized residential and farm assessment of the property rateable for separate school purposes in the whole of such zone in the county or district municipalities in such zone, and shall, in so far as it is practicable to do so, combine municipalities that are adjoining.

Appeal from determination

(14) Where the determination made by the clerks of the county or district municipalities under subsection 8 allots to a municipality or to a combination of municipalities a percentage of the total number of trustees to be elected by the separate school electors of all the county or district municipalities in the combined separate school zone that differs by more than five percentage points from the percentage that the equalized residential and farm assessment of the property rateable for separate school purposes in the part of such zone in the municipality or combination of municipalities is of the total equalized residential and farm assessment of the property rateable for separate school purposes in the whole of such zone, the council of the municipality or the council of any municipality in such combination of municipalities, as the case may be, may, within fifteen days after notice of the determination has been mailed, appeal the determination to the judge who, before the 1st day of October, shall either reapportion the number of trustees in accordance with subsection 13 or, where he determines that the determination was made in accordance with subsection 13, confirm the determination, and his decision is final.

Request by clerk for information

(15) On the request of the clerk of the county municipality or the organized district municipality, as the case may be, having the greatest equalized residential and farm assessment for separate school purposes in a combined separate school zone, the clerk of each city and of each county or district municipality and the secretary of the county or district combined separate school board shall provide the clerk of such county municipality or organized district municipality with the information required to make any determination under this section.

Mailing of determination under subss. 8, 14

(16) The clerk of the county municipality or the clerk of the organized district municipality, as the case may be, having the greatest equalized residential and farm assessment for separate school purposes in a county or district combined separate school zone shall send by registered mail to the clerk of each city and of each county or district municipality in the combined separate school zone and to the secretary of the county or district combined separate school board,

(*a*) before the 1st day of September in each year in which it is determined under subsection 3 that the number of trustees of the board should be increased or decreased or in which a determination is made under subsection 8, a copy of the determination made under subsection 8; and

(*b*) before the 1st day of October in each year in which a determination is made by the judge under subsection 11 or 14 a copy of the determination.

Appeal and decisions of judge

(17) The council of any municipality concerned and a district combined separate school board on behalf of any territory without municipal organization may, within ten days of the mailing of the determination made under subsection 4, appeal to the judge with respect to the accuracy of the determination, and the judge shall either vary or confirm the determination, and his decision is final, and the clerk of the county or district municipality responsible under subsection 5 for making such determination shall make the changes required by the judge and shall send a copy of the decision by registered mail to the clerk of each city and of each county or district municipality in the combined separate school zone and to the secretary of the county or district combined separate school board.

New determination where former determination improper

(18) Where the council of a municipality, or a county or district combined separate school board on behalf of any territory without municipal organization that is deemed a district municipality, after the period for an appeal under this section, and notwithstanding a decision made in respect of such appeal, is of the opinion that the composition of the board of a combined separate school zone was not determined in accordance with the provisions of this section, the council or the board may, before the 1st day of May in the year of the next following election, apply to the judge to have the determination set aside and, where the judge finds that the determination was not made in accordance with the provisions of this section, he shall order a new determination to be made, and the determination so made, subject to an appeal under subsection 14 or 17, shall apply to the election next following such determination, and the board in respect of which the application to the judge is made shall be deemed to have been properly constituted notwithstanding any defect in its composition.

Where election by general vote and where by areas

(19) The number of trustees of a county or district combined separate school board to be elected in a municipality shall be elected by a general vote of the separate school electors of such board in the municipality, provided that, where it is determined under this section that the number of trustees to be elected to the board by the separate school electors in the municipality is two or more, the council of the municipality may, by by-law, divide the municipality into two or more areas and provide for the election of one or more of such trustees by the separate school electors in each of such areas. R.S.O. 1970, c. 430, s. 90 (11-17).

Time for passing by-law

(20) A by-law for the purpose mentioned in subsection 19 and a by-law repealing any such by-law shall not be passed later than the 1st day of October in the year of the election

and shall take effect for the purpose of the election next after the passing of the by-law and remains in force until repealed. R.S.O. 1970, c. 425, s. 38 (20); R.S.O. 1970, c. 430, s. 90 (18).

Elections in combined areas

(21) Where two or more county or district municipalities are combined for the election of one or more trustees, such trustee or trustees shall, except where a determination is made under subsection 9, be elected by a general vote of the separate school electors of the combined municipalities, and where, under subsection 9 or 10 a portion of a county municipality is attached to one or more other county municipalities for the election of one or two trustees, such trustee or trustees shall be elected by a general vote of the separate school electors of such combined area, and,

(*a*) the nominations in each case shall be conducted by the returning officer of the municipality having the greatest equalized residential and farm assessment for separate school purposes of any municipality all of which is in the area for which the trustee or trustees are to be elected, who shall send to the clerk of each municipality concerned, by registered mail within forty-eight hours after the closing of nominations, the names of the candidates who have qualified; and

(*b*) the clerk of each municipality shall be the returning officer for the vote to be recorded in his municipality and he shall report forthwith the vote recorded to the returning officer referred to in clause *a*, who shall prepare the final summary and announce the vote. 1972, c. 76, s. 30 (4).

Secretary of board deemed clerk for elections in areas deemed district municipalities

(22) For the purposes of clause *b* of subsection 21, the secretary of the district combined separate school board shall be the clerk of each part of territory without municipal organization in the district combined separate school zone that is deemed to be a district municipality for separate school purposes. R.S.O. 1970, c. 430, s. 90 (20).

Elections

(23) The election of trustees of a county or district combined separate school board shall be conducted by the same officers and in the same manner as elections of members of the council of a municipality. 1972, c. 76, s. 30 (5).

Effect of boundary change on election

111. Where the boundaries of an area designated by the regulations under subsection 2 of section 103 in respect of a county or district combined separate school board are to be altered effective on the 1st day of January next following

the election of trustees of the board, the boundaries of such area shall be deemed to have been altered for all purposes relating to such election. 1972, c. 137, s. 5.

Number of votes to be cast

112.—(1) Every person in a municipality or in a part thereof or in a combination of municipalities who is qualified to vote for trustees of a separate school board under sections 103 to 115 is entitled to as many votes as there are trustees to be elected in such municipality or part or combination of municipalities, but may not give more than one vote to any one candidate.

Retiring trustees eligible for re-election

(2) A trustee of a county or district combined separate school board is eligible for re-election if otherwise qualified.

Qualifications for nominators of candidates

(3) Every nominator of a candidate for the office of a trustee to be elected to a separate school board under sections 103 to 115 shall be a separate school elector.

Person not to be candidate for more than one seat on board

(4) No person shall qualify himself as a candidate for more than one seat on a county or district combined separate school board, and any person who so qualifies himself and is elected to hold one or more seats on the county or district combined separate school board is not entitled to sit as a trustee of the board by reason of the election, and his seat or seats are thereby vacated. R.S.O. 1970, c. 430, s. 91 (1-4), *amended*.

Election to fill vacancy

1972, c. 95

(5) A separate school board under sections 103 to 115 may require that an election be held to fill a vacancy on the board and, where an election is held, the provisions of *The Municipal Elections Act, 1972* that pertain to an election to fill a vacancy apply. 1972, c. 76, s. 31.

Ottawa separate school zone

113.—(1) On and after the 1st day of January, 1970, the cities of Vanier and Ottawa and the Village of Rockcliffe Park are united to form a county combined separate school zone under sections 103 to 115.

Ottawa Board

(2) A separate school board shall be established for such combined separate school zone which shall be a corporation by the name of "The Ottawa Roman Catholic Separate School Board" and shall consist of sixteen trustees.

Number of trustees to be elected in Ottawa and Rockcliffe Park

(3) The number of trustees to be elected by the separate school electors in the area comprising the City of Ottawa and the Village of Rockcliffe Park shall be equal to the product, correct to the nearest integer, the fraction one-half being raised to the next higher integer, obtained by multiplying sixteen by the ratio of the equalized residential and farm

assessment of the property rateable for separate school purposes in the City of Ottawa and the Village of Rockcliffe Park to the equalized residential and farm assessment of all the property rateable for separate school purposes in the combined separate school zone, and such trustees shall be elected by general vote.

Vanier

(4) The number of trustees to be elected by the separate school electors in the City of Vanier shall be sixteen, less the number determined under subsection 3, and such trustees shall be elected by general vote, but in no case shall the number of trustees elected under this subsection be fewer than one.

Election of trustees, term of office

(5) Commencing in the year 1969, the trustees of The Ottawa Roman Catholic Separate School Board shall be elected at the same time and place and for the same term of office as the members of The Ottawa Board of Education, and the nomination of candidates for the offices of trustees to be elected by the separate school electors in the City of Ottawa and the Village of Rockcliffe Park shall be submitted to the returning officer of the City of Ottawa, and the clerk of the Village of Rockcliffe Park, forthwith after the election, shall report the vote recorded in his municipality to the clerk of the City of Ottawa who shall prepare the final summary and announce the vote.

Application of ss. 103-115

(6) Except where inconsistent with this section, the other provisions of sections 103 to 115 in respect of county combined separate school boards apply *mutatis mutandis* to the board established under subsection 2. R.S.O. 1970, c. 430, s. 82, *amended*.

Carleton combined separate school zone

114.—(1) On and after the 1st day of January, 1969, the separate school zones and the former separate school zones that form all or part of a combined separate school zone whose centres are within an area municipality as defined in *The Regional Municipality of Ottawa-Carleton Act*, except the cities of Vanier and Ottawa and the Village of Rockcliffe Park, are united to form a county combined separate school zone.

R.S.O. 1970, c. 407

Carleton Board

(2) A separate school board shall be established for such county combined separate school zone which shall be a corporation by the name of "The Carleton Roman Catholic Separate School Board".

Election of trustees, term of office

(3) The trustees of The Carleton Roman Catholic Separate School Board shall be elected at the same time and for the same term of office as the members of The Carleton Board of Education.

Application of Act to Carleton Board

(4) Except as provided in this section, all the provisions of this Act respecting county combined separate school boards apply to The Carleton Roman Catholic Separate School Board. R.S.O. 1970, c. 430, s. 83.

Part of Ottawa-Carleton deemed county

R.S.O. 1970, c. 407

(5) For county combined separate school purposes, the area municipalities as defined in *The Regional Municipality of Ottawa-Carleton Act*, except the cities of Ottawa and Vanier and the Village of Rockcliffe Park, shall be deemed to be a county. R.S.O. 1970, c. 430, s. 80 (2).

Essex county

115.—(1) For county combined separate school purposes, the County of Essex does not include the City of Windsor. R.S.O. 1970, c. 430, s. 80 (4); 1972, c. 76, s. 26 (2).

Application of ss. 203, 204

(2) Sections 203 and 204 apply *mutatis mutandis* to the City of Windsor and The Board of Trustees of the Roman Catholic Separate Schools for the City of Windsor. R.S.O. 1970, c. 430, s. 80 (5).

Rates, Borrowing Powers and Grants

Exemption of supporters from public school rates

116.—(1) Every person paying rates in a separate school zone on property that he occupies as owner or tenant or on unoccupied property that he owns, who by himself or his agent, on or before the 30th day of September in any year, gives to the clerk of the municipality notice in writing that he is a Roman Catholic and that he wishes to be a separate school supporter, is exempt from the payment of all rates imposed on such property in the separate school zone for public school purposes for the following year and every subsequent year while he continues to be a separate school supporter with respect to such property.

No renewal required

(2) The notice is not required to be renewed annually.

Who may be supporters of separate schools

(3) Any person who is a Roman Catholic and resident on a parcel of land that is within a separate school zone may be a separate school supporter in that zone. R.S.O. 1970, c. 430, s. 53 (1-3), *amended*.

Rights of non-residents to be assessed for separate school

(4) Any person who, if he were resident in a separate school zone, would be entitled to be a supporter of a separate school and who is the owner of unoccupied land situate in the separate school zone, may, on or before the 30th day of September in any year, by written notice to the clerk of the municipality in which the land is situate or, where the land is not in a municipality, to the secretaries of the public and separate school boards, direct that all such land in the separate school zone shall be assessed for the purposes of the separate school. 1972, c. 76, s. 16.

(5) Every clerk of a municipality, upon receiving the notice, shall deliver a certificate to the person giving the notice to the effect that the notice has been given and showing the date thereof. Certificate of notice

(6) Any person who fraudulently gives such notice, or wilfully makes any false statement therein, does not thereby secure any exemption from the rates, and in addition is guilty of an offence and on summary conviction is liable to a fine of not more than $100. Penalty for wilful false statements in notice

(7) Nothing in this section exempts any person from paying any rate for public school purposes imposed before the establishment of the separate school zone. R.S.O. 1970, c. 430, s. 53 (5-7), *amended*. As to rates imposed before separate school established

117.—(1) A Roman Catholic who desires to withdraw his support from a separate school shall, on or before the 30th day of September in any year, give notice in writing that he desires to withdraw his support for the following year, Notice of withdrawal of support

(*a*) where the separate school is situated in a municipality, to the clerk of the municipality; or

(*b*) where the separate school is situated in territory without municipal organization,

(i) if he resides in a school section, to the secretary of the public school board of the section and to the secretary of the separate school board, or

(ii) if he does not reside in a school section, to the secretary of the separate school board,

otherwise he shall be deemed to be a supporter of the separate school.

(2) A person who withdraws his support from a Roman Catholic separate school is not exempt from paying rates for separate school purposes imposed before the date on which the withdrawal of such support is effective. R.S.O. 1970, c. 430, s. 59. Exception

118.—(1) Where a person resides in a separate school zone and is a separate school supporter in such zone but his residence is situate in a municipality other than a municipality in which a centre of such zone is located, he is liable to pay and shall pay the separate school rates or taxes imposed by the board of the separate school of which he is a Liability of non-resident supporter

supporter upon property that is situate in such zone and that he occupies as owner or tenant or that is unoccupied and owned by him, and he is not liable to pay rates or taxes to any other separate school board in respect of such property.

How enforceable

(2) The board of the school of which he is a supporter shall notify the clerk of the municipality in which such supporter resides of the amount of the school taxes or rates payable by him, and the same shall be collected in like manner as other taxes, and when collected shall be paid over to the board. R.S.O. 1970, c. 430, s. 58, *amended*.

Clerk to keep index book

119.—(1) The clerk of every municipality shall keep entered in an index book (Form 1) and in alphabetical order, the name of every person who has given to him, or to any former clerk of the municipality, notice in writing that such person is a Roman Catholic and a supporter of a separate school in or contiguous to the municipality, as provided by sections 116, 122 and 123 or by former Acts respecting separate schools.

Entries

(2) The clerk shall enter opposite the name, in a column for that purpose, the date on which the notice was received, and in a third column opposite the name any notice by such person of withdrawal from supporting a separate school, as provided by section 117, or by any such other Act, with the date of the withdrawal, or any disallowance of the notice by the Assessment Review Court, by a judge, by the Ontario Municipal Board or by the Court of Appeal, with the date of the disallowance.

Inspection

(3) The index book shall be open to inspection by any ratepayer.

Filings

(4) The clerk shall file and carefully preserve all such notices heretofore or hereafter received. R.S.O. 1970, c. 430, s. 60 (1-4).

Clerk to be guided by index book

(5) The clerk and the appropriate assessment commissioner shall be guided by the entries in the index book in ascertaining those who have given the prescribed notices. R.S.O. 1970, c. 430, s. 60 (5); 1972, c. 76, s. 17, *amended*.

Correction of mistakes in assessing
R.S.O. 1970, c. 32

120.—(1) If it appears to the council of any municipality after the final revision of the list supplied to the clerk under section 23 of *The Assessment Act* that through mistake or inadvertance a ratepayer has been entered on the list either as a supporter of separate schools or as a supporter of public schools, the council after due inquiry and notice may correct the error by directing the school taxes of the ratepayer to be paid to the proper school board, but the council is not competent to reverse the decision of the Assessment Review Court, a judge, the Ontario Municipal Board or the Court of Appeal on appeal. R.S.O. 1970, c. 430, s. 61 (1); 1972, c. 76, s. 18.

(2) In case of such action by a council, the ratepayer is liable for the same amount of school taxes as if he had in the first instance been properly entered on the roll. R.S.O. 1970, c. 430, s. 61 (2). Liability

121.—(1) The clerk of every municipality, in making out the collector's roll, shall place columns therein so that under the heading of "School Rate" the public school rate may be distinguished from the separate school rate, and that under "Special Rate for School Debts" public school purposes may be distinguished from separate school purposes. Distinguishing the school rates

(2) The proceeds of any such rate shall be kept distinguished by the collector and accounted for accordingly. R.S.O. 1970, c. 430, s. 62. Idem

122.—(1) The occupant or tenant of land shall be deemed to be the person primarily liable for the payment of school rates and for determining whether those rates shall be applied to public or separate school purposes, and no agreement between the owner or tenant as to the payment of taxes as between themselves alters or affects this provision. Case of owner and occupant

(2) Where, as between the owner and tenant or occupant, the owner is not to pay taxes, if by the default of the tenant or occupant to pay the same, the owner is compelled to pay such school rate, he may direct the same to be applied to either public or separate school purposes, and if the public school rate and the separate school rate are not the same he is only liable to pay the amount of the rate of the schools to which he directs his money to be paid. R.S.O. 1970, c. 430, s. 63. When owner may exercise option

123.—(1) A corporation by notice (Form 2) to the clerk of any municipality wherein a separate school exists may require the whole or any part of the land of which the corporation is either the owner and occupant, or not being the owner is the tenant, occupant or actual possessor, and the whole or any proportion of the business assessment or other assessments of the corporation made under *The Assessment Act*, to be entered, rated and assessed for the purposes of the separate school. R.S.O. 1970, c. 430, s. 64 (1). Right of corporation to support separate schools; R.S.O. 1970, c. 32

(2) The clerk shall thereupon enter the corporation as a separate school supporter in the collector's roll in respect of the land and business or other assessments designated in the notice, and the proper entries shall be made in the prescribed column for separate school rates, and so much of the land and business or other assessments so designated shall be assessed accordingly for the purposes of the separate school and not for public school purposes, but all other land and the Duty of clerk

remainder, if any, of the business or other assessments of the corporation shall be separately entered and assessed for public school purposes. R.S.O. 1970, c. 430, s. 64 (2); 1972, c. 76, s. 20 (1).

How proportions settled

(3) Unless all the stock or shares are held by Roman Catholics, the share or portion of such land and business or other assessments to be so rated and assessed shall not bear a greater proportion to the whole of such assessments than the amount of the stock or shares so held bears to the whole amount of the stock or shares.

Effect of notice

(4) A notice given in pursuance of a resolution of the directors is sufficient and shall continue in force and be acted upon until it is withdrawn, varied or cancelled by a notice subsequently given pursuant to any resolution of the corporation or of its directors, except that, upon appeal, if it is ruled that the notice is not a proper notice, it is void, and the clerk shall so notify the corporation and mark the notice accordingly. R.S.O. 1970, c. 430, s. 64 (3, 4).

Filing notice

(5) Every notice so given shall be kept by the clerk on file in his office and shall at all convenient hours be open to inspection and examination by any person entitled to examine or inspect a collector's roll. R.S.O. 1970, c. 430, s. 64 (5); 1972, c. 76, s. 26 (20).

Search for notices
R.S.O. 1970, c. 32

(6) The clerk shall in each year, before the final revision of the list supplied to the clerk under section 23 of *The Assessment Act*, search for and examine all notices that may be so on file and shall follow and conform thereto and to the provisions of this Act. R.S.O. 1970, c. 430, s. 64 (6); 1972, c. 76, s. 20 (3).

Estimates

124.—(1) Every separate school board shall prepare and adopt estimates of all sums required during the year for separate school purposes, and the provisions of section 205 in respect of the preparation and adoption of the estimates of all sums required for public school purposes by a divisional board of a school division apply, *mutatis mutandis*, to a separate school board for separate school purposes.

Where cost of separate levy payable by board

(2) Where rates or taxes in respect of separate schools are levied and collected by the council of a municipality under section 130 and the separate school board is unable in any year to submit to the council on or before the 1st day of March the rates required by the separate school board to be levied and collected in the municipality for separate school purposes, the later submission thereof does not relieve the council of its duty under section 130 to levy and collect such rates, and, where the municipality is required, by reason

of such later submission, to levy such rates by a separate levy from the amount levied for municipal purposes, the separate school board on the request of the treasurer of the municipality shall pay to the treasurer the cost of levying such rates.

(3) Subsection 5 of section 307 of *The Municipal Act* does not apply to a separate school board. 1972, c. 137, s. 3.

Application of R.S.O. 1970, c. 284, s. 307(5)

125.—(1) The board of a separate school may in respect of the estimates adopted under section 124 impose and levy school rates and collect school rates and subscriptions upon and from persons sending children to or subscribing towards the support of such schools, and may appoint collectors for collecting the school rates or subscriptions who shall have all the powers in respect thereof possessed by collectors of taxes in municipalities. R.S.O. 1970, c. 430, s. 66 (1); 1972, c. 76, s. 22.

Powers of trustees

(2) If a collector appointed by the board is unable to collect any part of a school rate charged on land liable to assessment by reason of there being no person resident thereon or no goods and chattels to distrain, the board shall make a return to the clerk of the municipality before the end of the then current year of such land and the uncollected rates thereon.

Land on which there are rates uncollected

(3) The clerk shall make a return of such land and the arrears of separate school rates thereon to the appropriate municipal treasurer.

Return

(4) The arrears shall be collected and accounted for by the treasurer in the same manner as the arrears of other taxes.

Collection of rates

(5) The council of the township, village, town or city in which the separate school zone is situate shall make up the deficiency arising from such uncollected rates out of the general funds of the municipality. R.S.O. 1970, c. 430, s. 66.

Deficiency

126. Where some of the supporters in a separate school zone reside in a municipality or in territory without municipal organization and in a secondary school district and other supporters in the separate school zone reside in another municipality or in territory without municipal organization and not in a secondary school district, and the separate school board,

Levy for costs for transportation and board and lodging of secondary school pupils not resident in secondary school district

(*a*) provides daily transportation; or

(*b*) reimburses the parents or guardians for the cost of board, lodging and transportation once a week under subsection 10 of section 163,

for secondary school pupils whose parents or guardians are separate school supporters who do not reside in the secondary school district, such separate school board may levy the cost of such transportation or reimbursement for the preceding year, less the legislative grants paid thereon, on the supporters who do not reside in the secondary school district. R.S.O. 1970, c. 430, s. 67.

Determining school rates by equalizing factor

127.—(1) Where a separate school zone includes territory in two or more municipalities, the board shall, when it is setting the rates to be levied in any year, use an equalizing factor for each municipality in the zone which, when applied to the local assessment of properties in a municipality, would increase or decrease the local assessment on such properties to a sum equal to the local assessment on similar properties in the municipality in which the greatest number of its pupils reside.

Adoption of rate

(2) The board shall adopt a tax rate to be levied in the municipality in which the greatest number of its pupils reside and multiply that rate by the factor determined for each municipality in the zone, and the resulting rates calculated to the nearest tenth of a mill shall be the rates in the respective municipalities for separate school purposes in the zone.

Arbitrators, appointment

(3) For the purpose of determining the factors, the board shall appoint three arbitrators who are not trustees who shall meet and determine the factors.

Meeting

(4) The secretary of the board shall call the meeting of the arbitrators.

Determination of factors

(5) The arbitrators shall base their decision on a comparison of the local assessment on sample properties that are assessed to the support of the separate schools in the municipality in which the greatest number of its pupils reside with the local assessment on similar properties in the other municipalities in which any part of the separate school zone is situated, and the factors so determined shall be used by the board when it sets its rates at any time following the decision of the arbitrators and until the factors are altered by arbitration.

When factors to be determined

(6) The factors shall be determined,

(*a*) in the year in which the separate school is formed;

(*b*) in any year that is divisible evenly by 5;

(*c*) in any year in which the basis of assessing has been changed in any of the municipalities in which part of the separate school zone is situate; and

(*d*) in any year if the board so directs.

Appeal to board

(7) Five supporters of the separate school in the separate school zone or the majority of the supporters who reside in one municipality in the zone may, on or before the 1st day of November in any year, appeal to the board against the last determination of the factors, and the decision of the board is final.

Use of factors

(8) The factors determined in any year shall be used for the purposes of taxation in the following and subsequent years until the year following the next determination of the factors.

Cost of arbitration

(9) The cost of the arbitration shall be paid by the separate school board. R.S.O. 1970, c. 430, s. 68.

Trustees may copy assessment roll of municipality

128. The clerk or other officer of a municipality within or adjoining which a separate school is established, having possession of the assessor's or collector's roll of the municipality, shall permit any trustee or the collector of the board to make a copy of the roll in so far as it relates to the persons supporting the separate school. R.S.O. 1970, c. 430, s. 69.

Clerk to give trustees annual statement of supporters of separate schools

129. The clerk of a municipality in which there is a separate school board shall, once in each year, upon the written request of the board, deliver to it a statement in writing showing the names of all persons who are separate school suporters with the amount for which each person has been rated upon the assessment roll. R.S.O. 1970, c. 430, s. 70.

Request for collection of separate school rates by the municipality

130.—(1) The council of a municipality, if so requested on or before the 1st day of February in any year by a separate school board having jurisdiction in the municipality, shall levy and collect upon the property rateable for separate school purposes in the municipality and within the jurisdiction of the board, the rates or taxes imposed thereon by the board, and such request shall be deemed to continue from year to year unless terminated by the board giving notice to the council on or before the 1st day of February in any year. R.S.O. 1970, c. 430, s. 71 (1); 1971, c. 70, s. 3.

Expenses of collection

(2) Any expenses attending the assessment, collection or payment of school rates by the municipal corporation shall be borne by the corporation, and the rates and taxes collected

for separate school purposes shall be paid by the corporation to the treasurer of the board and the provisions of section 208 shall apply *mutatis mutandis* to such rates and taxes. R.S.O. 1970, c. 430, s. 71 (2), *amended*.

Borrowing powers of separate school trustees

131.—(1) The board of a separate school may pass by-laws for borrowing money, by mortgages or other instruments, upon the security of the schoolhouse property and premises and any other real or personal property vested in the board and upon the separate school rates for the purpose of paying the cost of school sites, school buildings or additions or repairs thereto or for any other school purposes. R.S.O. 1970, c. 430, s. 73 (1), *amended*

Terms of payment

(2) The principal money may be made payable in annual or other instalments, with or without interest, and the board, in addition to all other rates or money that it may levy in any one year, may levy and collect in each year such further sum as may be requisite for paying all principal money and interest falling due in that year, and the same shall be levied and collected in each year in the same manner and from the like persons and property by, from, upon or out of which other separate school rates may be levied and collected.

Debentures

(3) Such mortgages and other instruments may in the discretion of the board be made in the form of debentures, and the debentures are a charge on the same property and the rates as in the case of mortgages thereof made by the board.

Maturity

R.S.O. 1970, c. 284

(4) The debt to be so incurred and the debentures to be issued therefor may be made payable in thirty years at the furthest, and in equal annual instalments of principal and interest, or in any other manner authorized by *The Municipal Act* in the case of debentures issued under that Act. R.S.O. 1970, c. 430, s. 73 (2-4).

Sinking fund

(5) Where the debt is not payable by instalments, the board shall levy in each year during the currency of the debt in addition to the amount required to pay the interest falling due in such year a sum such that the aggregate amount so levied during the currency of the debt, with the estimated interest on the investments thereof, will be sufficient to discharge the debt when it becomes payable.

Investment of fund

R.S.O. 1970, cc. 254, 284

(6) The sum referred to in subsection 5 shall be deposited with a chartered bank or a trust company that is registered under *The Loan and Trust Corporations Act*, and such sum and any income resulting therefrom shall be invested by such bank or trust company in the manner provided in

The Municipal Act for sinking funds, and subsections 4 to 9 of section 291 of *The Municipal Act* apply *mutatis mutandis* except that reference therein to the Ministry of Treasury, Economics and Intergovernmental Affairs shall be deemed to be a reference to the Ministry of Education. 1972, c. 76, s. 25.

Publication of notice of by-law

(7) Before a by-law for borrowing money for a permanent improvement is acted upon, notice of the passing of the by-law shall be published for three consecutive weeks in a newspaper having general circulation within the separate school zone stating,

(*a*) the purpose for which the money is to be borrowed;

(*b*) the amount to be borrowed and the security therefor;

(*c*) the terms of repayment including the rate of interest,

and, if no application to quash the by-law is made for three months after publication of notice of the passing thereof, the by-law is valid notwithstanding any want of substance or form in the by-law or in the time or manner of passing the by-law.

Amounts

(8) The debentures issued under the by-law may be for such amounts as the board considers expedient. R.S.O. 1970, c. 430, s. 73 (6, 7).

Share of legislative grants

132.—(1) Every separate school shall share in the legislative grants in like manner as a public school.

Right of separate schools to a share of municipal grants

(2) Every separate school is entitled to share in all grants, investments and allotments for public school purposes made by any municipal authority according to the average number of pupils enrolled at the school during the next preceding twelve months, or during the number of months that may have elapsed from the establishment of a new separate school, as compared with the whole average number of pupils enrolled at school in the same city, town, village or township.

Apportionment

(3) Where the grant is made by a council of a county or a regional municipality it shall be apportioned in like manner as the legislative grant.

Not to share in public school assessment

(4) A separate school is not entitled to share in any school money arising or accruing from local assessment for public school purposes within the city, town, village or township in which the school is situate. R.S.O. 1970, c. 430, s. 74, *amended*.

Visitors

Separate school visitors

133. A parent or guardian of a child attending a separate school and a member of the board that operates the school may visit such school, and a member of the Assembly and a clergyman of the Roman Catholic Church may visit a separate school in his constituency or in the area where he has pastoral charge, as the case may be. R.S.O. 1970, c. 430, s. 75, *amended*.

FORM 1

FORM OF INDEX BOOK

[*Section 119 (1)*]

Names	Notices claiming exemption, when received	Remarks
Allen, John.....	3rd February, 19..	Notice of withdrawal received 1st January, 19...
Ardagh, Joseph....	3rd February, 19.	
Ashbridge, Robert..	3rd February, 19..	Disallowed by Assessment Review Court, 1st June, 19. .

R.S.O. 1970, c. 430, Form 1.

FORM 2

NOTICE BY CORPORATION AS TO APPLICATION OF SCHOOL TAX

[*Section 123 (1)*]

To the Clerk of (*describing the municipality*)

Take notice that (*here insert the name of the corporation so as to sufficiently and reasonably designate it*), pursuant to a resolution in that behalf of the directors, requires that hereafter and until this notice is either withdrawn or varied, the whole or so much of the assessment for land and business or other assessments of the corporation within (*giving the name of the municipality*) as is hereinafter designated, shall be entered, rated and assessed for separate school purposes, namely, (*here insert fraction of assessment so designated*) of the land and business or other assessments.

Given on behalf of the company (*here insert date*).

Secretary of the Company.

R.S.O. 1970, c. 430, Form 2, *amended*.

PART V

PROTESTANT SEPARATE SCHOOLS

Application to establish Protestant separate school

134.—(1) Subject to subsection 3, five or more heads of families resident in a municipality and being Protestants may, before the 1st day of July in any year, apply in writing, in the case of a township, to the council of the township or, in the case of an urban municipality, to the public school board for permission to establish in the municipality one or more separate schools for Protestants.

Permission to establish

(2) Subject to subsection 3, the council or the public school board, as the case may be, within thirty days of the receipt of a proper application shall grant permission to the applicants to establish in the municipality one or more separate schools for Protestants.

Restrictions on establishment

(3) A Protestant separate school shall not be established in a municipality except where the teacher or teachers in the public school or schools in the municipality are Roman Catholics. R.S.O. 1970, c. 430, s. 1.

Effective date

(4) A Protestant separate school is established on the day following the granting of permission to establish the school by the council or public school board, as the case may be. R.S.O. 1970, c. 430, s. 4.

Notice to be supporter, exemption from public school rates

135.—(1) Every person paying rates on property that he occupies as owner or tenant in a municipality in which a Protestant separate school is established, who, by himself or his agent, on or before the 30th day of September in any year, gives to the clerk of the municipality notice in writing that he is a Protestant and that he wishes to be a Protestant separate school supporter, is exempt from the payment of all rates imposed on such property for the support of public schools or for the purchase of land or the erection of buildings for public school purposes for the following year and every subsequent year while he continues to be a Protestant separate school supporter with respect to such property.

No renewal required

(2) The notice is not required to be renewed annually.

Certificate of notice

(3) Every clerk of a municipality, upon receiving the notice shall deliver a certificate to the person giving the notice to the effect that the notice has been given and showing the date thereof.

Penalty for wilful false statements in notice

(4) Any person who fraudulently gives such notice, or wilfully makes any false statement therein, does not thereby secure any exemption from the rates and in addition is guilty of an offence and liable to a fine of not more than $100.

As to rates imposed before Protestant separate school established

(5) Nothing in this section exempts any person from paying any rate for public school purposes imposed before the establishment of the Protestant separate school. R.S.O. 1970, c. 430, s. 5, *amended*.

Withdrawal of support

136. A Protestant separate school supporter who desires to withdraw his support from a Protestant separate school shall give notice thereof in writing to the clerk of the municipality in which he resides on or before the 30th day of September in any year, otherwise he shall be deemed to be a Protestant separate school supporter. R.S.O. 1970, c. 430, s. 6.

Index book

137.—(1) The clerk of each municipality in which a Protestant separate school is established shall keep an index book to record the name of each Protestant who has declared himself to be a supporter of a Protestant separate school in the same manner *mutatis mutandis* as is provided for the keeping of an index of each Roman Catholic who has declared himself to be a supporter of a Roman Catholic separate school.

Inspection

(2) The index book shall be open to inspection by any ratepayer.

Filing of notices

(3) The clerk shall file and carefully preserve all notices given to the clerk of the municipality under sections 135 and 136. R.S.O. 1970, c. 430, s. 7 (1-3).

Clerk to be guided by index book

(4) The clerk and the appropriate assessment commissioner shall be guided by the entries in the index book in ascertaining those who have given the prescribed notices. R.S.O. 1970, c. 430, s. 7 (4); 1972, c. 76, s. 1, *amended*.

Not to share in public school assessment

138.—(1) Protestant separate schools shall not share in money raised by local municipal assessment for public school purposes.

Share of legislative grants

(2) Every Protestant separate school shall share in the legislative grants in like manner as a public school. R.S.O. 1970, c. 430, s. 8.

Reports

139.—(1) Every Protestant separate school board and principal of a Protestant separate school in a municipality shall transmit reports to the Ministry in such form and at such times as may be required by the Minister.

Use of assessor's roll by board

(2) The clerk or other officer of the municipality in which a Protestant separate school is established who has possession of the assessor's or collector's roll of the municipality shall allow any trustee or the authorized collector of the board to make a copy of the roll. R.S.O. 1970, c. 430, s. 9, *amended*.

140. Every person who is assessed as a Protestant separate school supporter and whose name appears on the list of voters of the municipality in which the land in respect of which he or she is assessed is situate, and the wife or husband of such supporter, if she or he is a Protestant, is entitled to vote at the election of trustees for the Protestant separate school board and on any school question having to do with the Protestant separate school or board. R.S.O. 1970, c. 430, s. 10, *amended*. Qualification of a voter

141.—(1) A Protestant separate school trustee shall have the same qualifications as a public school trustee, except that he shall be a supporter of a Protestant separate school. Qualification of a trustee

(2) A Protestant separate school board shall have the same number of trustees as a Roman Catholic separate school board would have if established in the same municipality, and the trustees may be elected in the same manner as Roman Catholic separate school trustees may be elected, and the provisions of Part IV with respect to the election of trustees of Roman Catholic rural and urban separate schools apply *mutatis mutandis* to the election of trustees of Protestant rural and urban separate school boards. R.S.O. 1970, c. 430, s. 11. Election of trustees

142. The trustees of every Protestant separate school board are a body corporate under the name of "The Protestant Separate School Board of the....." (*inserting the name of the city, town, village or township*). R.S.O. 1970, c. 430, s. 12. Corporate name of board

143. A Protestant separate school board has the same powers as a district school area board. R.S.O. 1970, c. 430, s. 13, *amended*. Powers of board

144. A Protestant separate school board is discontinued in the same manner as a Roman Catholic separate school board is discontinued and may be re-established in the manner provided in section 134. R.S.O. 1970, c. 430, s. 14. Discontinuing board

145. Subsections 3 and 4 of section 97, subsection 2 of section 98, sections 120, 121 and 122 and clause *d* of subsection 1 of section 171 apply in respect of Protestant separate schools and Protestant separate school boards. R.S.O. 1970, c. 430, s. 15. Application of other sections

PART VI

BOARDS

Duties and Powers

Duties of boards:

146. Every board shall,

appoint secretary-treasurer

1. appoint a secretary and a treasurer or a secretary-treasurer who, in the case of a board of not more than five elected members, may be a member of the board;

security of treasurer

2. take proper security from the treasurer or secretary-treasurer;

order payment of bills

3. give the necessary orders on the treasurer for payment of all moneys expended for school purposes and of such other expenses for promoting the interests of the schools under the jurisdiction of the board as may be authorized by this Act or the regulations and by the board;

meetings

4. fix the times and places for the meetings of the board and the mode of calling and conducting them, and ensure that a full and correct account of the proceedings thereat is kept;

head office

5. establish and maintain a head office and notify the Ministry of its location and address and notify the Ministry of any change in the location or address of the head office within ten days of such change;

provide instruction and accommodation

6. provide instruction and adequate accommodation during each school year for the pupils who have a right to attend a school under the jurisdiction of the board;

repair property

7. keep the school buildings and premises in proper repair and in a proper sanitary condition, provide suitable furniture and equipment and keep it in proper repair, and protect the property of the board;

insurance

8. make provision for insuring adequately the buildings and equipment of the board and for insuring the board and its employees and volunteers who are assigned duties by the principal against claims in respect of accidents incurred by pupils while under the jurisdiction or supervision of the board;

conduct schools

9. ensure that every school under its charge is conducted in accordance with this Act and the regulations;

10. keep open its schools during the whole period of the school year determined under the regulations, except where it is otherwise provided under this Act; school open

11. appoint for each school that it operates a principal and an adequate number of teachers, all of whom shall be qualified according to this Act and the regulations; appoint principal and teachers

12. provide, without charge, for the use of the pupils attending the school or schools operated by the board, the textbooks that are required by the regulations to be purchased by the board; provide textbooks

13. where it furnishes transportation for pupils in a vehicle that is owned by the board, provide and carry with an insurer licensed under *The Insurance Act* for each such vehicle at least the amount of insurance that is required to be provided in respect of such a vehicle by the licensee of a school vehicle under *The Public Vehicles Act*; vehicle insurance R.S.O. 1970, cc. 224, 392

14. ascertain and report to the Ministry at least once in each year the names and ages of all children of compulsory school age within its jurisdiction who are not enrolled in any school or private school and the reasons therefor; report children not enrolled

15. transmit to the Minister all reports and returns required by this Act and the regulations; reports

16. issue to an employee, upon the termination of his employment with the board, a statement of the sick leave credits standing to his credit with the board at the time of such termination. R.S.O. 1970, c. 385, s. 51 (1) (*a*, *c*), (3) (*c*); R.S.O. 1970, c. 424, ss. 33, 34, par. 2; R.S.O. 1970, c. 425, s. 6 (1); R.S.O. 1970, c. 430, s. 50 (3) (*d*); 1972, c. 77, s. 17; 1973, c. 37, s. 6 (2), *amended*. statement of sick leave credits

147.—(1) A board may, Powers of boards:

1. appoint such committees as it considers expedient; R.S.O. 1970, c. 424, s. 34, par. 1. committees

2. subject to Part X, appoint and remove such officers and servants and, subject to Part IX, appoint and remove such teachers, as it considers expedient, determine the terms on which such officers, servants and teachers are to be employed, prescribe their duties and fix their salaries, except that in the case of a secretary of a board who is a member of the appoint employees

board, the board may pay only such compensation for his services as is approved by the electors at a meeting of the electors; R.S.O. 1970, c. 385, s. 35 (2); 1972, c. 77, s. 18 (1), *amended*.

voluntary assistants

3. permit a principal to assign to a person who volunteers to serve without remuneration such duties in respect of the school as are approved by the board and to terminate such assignment; 1972, c. 77, s. 18 (2).

supervisors

4. appoint supervisors of the teaching staff for positions that are provided for in any Act or regulation administered by the Minister and every appointee shall hold the qualifications and perform the duties required in the Act or regulations; R.S.O. 1970 c. 424, s. 34, par. 20.

psychiatrist or psychologist

5. appoint one or more,

   i. psychiatrists who are on the register of specialists in psychiatry of The Royal College of Physicians and Surgeons of Canada or of the College of Physicians and Surgeons of Ontario,

   ii. psychologists who are legally qualified medical practitioners or hold a certificate of registration under *The Psychologists Registration Act*; R.S.O. 1970, c. 424, s. 34, par. 3, *amended*,

R.S.O. 1970, c. 372

schools and attendance areas

6. determine the number and kind of schools to be established and maintained, and the attendance area for each school; R.S.O. 1970, c. 424, s. 34, par. 5, *amended*.

courses of study

7. provide instruction in courses of study that are prescribed or approved by the Minister, developed from curriculum guidelines issued by the Minister or approved by the board where the Minister permits the board to approve courses of study;

computer programming

8. enter into an agreement in respect of the use of a computer or a system of computer programming; *New*.

playgrounds, parks, rinks

9. operate the school ground as a park or playground and rink during the school year or in vacation or both, and provide and maintain such equipment as it considers advisable, and provide such supervision as it considers proper, provided the proper conduct of the school is not interfered with; R.S.O. 1970, c. 424, s. 34, par. 8; 1973, c. 92, s. 10 (1).

10. organize and carry on gymnasium classes in school buildings for pupils or others during the school year or in vacation or both, and provide supervision and training for such classes, provided the proper conduct of the school is not interfered with; R.S.O. 1970, c. 424, s. 34, par. 9; 1973, c. 92, s. 10 (2). gymnasiums

11. purchase milk to be consumed by the pupils in the schools under the jurisdiction of the board during school days in accordance with the terms and conditions prescribed by the regulations; R.S.O. 1970, c. 424, s. 34, par. 10. milk

12. provide school supplies, other than the textbooks that it is required to provide under paragraph 12 of section 146, for the use of pupils; provision of supplies, etc.

13. establish and maintain school libraries and resource centres; R.S.O. 1970, c. 424, s. 34, pars. 11, 12, *amended*. libraries

14. establish kindergartens and junior kindergartens; R.S.O. 1970, c. 385, s. 51 (2) (*c*) (i), *amended*. kindergartens, junior kindergartens

15. provide that the signature of the treasurer and of any other person authorized to sign cheques issued by the treasurer may be written or engraved, lithographed, printed or otherwise mechanically reproduced on cheques; 1972, c. 77, s. 18 (8). signatures mechanically reproduced

16. pay the travelling expenses and membership fees of any member of the board or of any teacher or officer of the board, incurred in attending meetings of an educational association and may make grants and pay membership fees to any such organization; membership fees and travelling expenses

17. pay the costs, or any part thereof, incurred by any member of the board or by any teacher, officer or other employee of the board in successfully defending any legal proceeding brought against him, legal costs

    i. for libel or slander in respect of any statements relating to the employment, suspension or dismissal of any person by the board published at a meeting of the board or of a committee thereof, or

    ii. for assault in respect of disciplinary action taken in the course of duty;

invest funds

R.S.O. 1970, c. 470

18. invest funds received from an insurance claim, gift, legacy or sale of property in such securities as a trustee may invest in under *The Trustee Act*; R.S.O. 1970, c. 424, s. 34, pars. 15-17.

idem

R.S.O. 1970, c. 254

19. invest moneys not required immediately by the board in bonds, debentures or other evidences of indebtedness of, or guaranteed by, the Government of Canada or the Province of Ontario, in term deposits with any chartered bank or in term deposits with, or guaranteed investment certificates or debentures of, any trust company or loan corporation that is registered under *The Loan and Trust Corporations Act*, or lend such moneys to any municipality or board by way of promissory note of the municipality or board, provided that the bonds, debentures or other evidences of indebtendness, term deposits, guaranteed investment certificates or promissory notes, become due and payable before the moneys invested therein are required by the board, and all interest thereon shall be credited to the fund from which the moneys are invested; 1971, c. 90, s. 5 (1); 1973, c. 92, s. 10 (3).

borrowing from funds

20. notwithstanding any other Act, borrow, for any purpose for which the board has authority to spend money, any moneys in any fund established by the board that are not immediately required by the board for the purposes of such fund, but such borrowing shall not extend beyond the term of office of the members of the board and, where secondary school moneys are borrowed for public school purposes or public school moneys are borrowed for secondary school purposes, the board shall pay interest to the fund from which such moneys are borrowed at a rate not less than that being earned by the fund at the date of borrowing; 1973, c. 92, s. 10 (4).

student fees

21. subject to the provisions of this Act and the regulations, fix the fees to be paid by or on behalf of pupils, and the times of payment thereof, and when necessary enforce payment thereof by action in the small claims court, and exclude any pupil by or on behalf of whom fees that are legally required to be paid are not paid after reasonable notice; R.S.O. 1970, c. 424, s. 34, par. 21; 1971, c. 90, s. 5 (2), *amended*.

permit use of school and school buses

22. permit the school buildings and premises and school buses owned by the board to be used for any educational or other lawful purpose; R.S.O. 1970, c. 424, s. 34, par. 23, *amended*.

23. provide for surgical treatment of children attending the school who suffer from minor physical defects, where in the opinion of the teacher and, where a school nurse and medical officer are employed, of the nurse and medical officer, the defect interferes with the proper education of the child, and include in the estimates for the current year the funds necessary for cases where the parents are not able to pay, provided that no such treatment shall be undertaken without the consent of the parents or guardian of the child; R.S.O. 1970, c. 385, s. 51 (2) (*g*). surgical treatment

24. establish and maintain cadet corps; R.S.O. 1970, c. 424, s. 34, par. 25, *amended*. cadet corps

25. provide for the promotion and encouragement of athletics and for the holding of school games; athletics

26. provide, during the school year or at other times, activities and programs on or off school premises, including field trips, and exercise jurisdiction over those persons participating therein; activities

27. appoint one or more teachers qualified in guidance according to the regulations to collect and distribute information regarding available occupations and employments, and to offer such counsel to the pupils as will enable them to plan intelligently for their educational and vocational advancement; R.S.O. 1970, c. 424, s. 34, pars. 26-28. guidance

28. conduct free lectures open to the public and include in the estimates for the current year the expenses thereof; R.S.O. 1970, c. 424, s. 34, par. 29, *amended*. public lectures

29. establish summer schools for pupils; summer schools

30. establish and conduct during the school year courses for teachers; courses for teachers

31. establish evening classes; R.S.O. 1970, c. 424, s. 34, pars. 30-32. evening classes

32. erect and maintain any wall or fence considered necessary by the board for enclosure of the school premises; R.S.O. 1970, c. 424, s. 33, par. 9. erect fences

33. contribute toward the support of school fairs; R.S.O. 1970, c. 385, s. 51, (2), (*e*). school fairs

student activities

34. authorize such school activities as pertain to the welfare of the pupils and exercise jurisdiction in respect thereof; R.S.O. 1970, c. 424, s. 34, par. 33, *amended*.

cafeteria

35. operate a cafeteria for the use of the staff and pupils; R.S.O. 1970, c. 424, s. 34, par. 35.

records management

36. institute a program of records management that will, subject to the regulations in respect of pupil records,

i. provide for the archival retention by the board or the Archivist of Ontario of school registers, minute books of the board and its predecessors, documents pertaining to boundaries of school sections, separate school zones and secondary school districts, original assessment and taxation records in the possession of the board and other records considered by the board to have enduring value or to be of historical interest, and

ii. establish, with the written approval of the auditor of the board, schedules for the retention, disposition and eventual destruction of records of the board and of the schools under its jurisdiction other than records retained for archival use; 1972, c. 77, s. 18 (5).

education of children in charitable organizations

37. employ and pay teachers, when so requested in writing by a charitable organization having the charge of children of school age, for the education of such children, whether such children are being educated in premises within or beyond the limits of the jurisdiction of the board, and pay for and furnish school supplies for their use; R.S.O. 1970, c. 424, s. 34, par. 38.

programs in detention homes

R.S.O. 1970, c. 369

1974, c. 2

38. employ and pay teachers to conduct an education program in a juvenile detention and observation home established under *The Provincial Courts Act*, a psychiatric facility as defined in the regulations and a facility designated under *The Developmental Services Act, 1974* in which an educational program is not provided by the Ministry, provide instructional supplies and consultative help for the pupils therein and permanent improvements for the classrooms connected therewith; 1972, c. 77, s. 18 (6), *amended*.

39. provide for maternity leave for a teacher, not exceeding two years for each pregnancy; R.S.O. 1970, c. 424, s. 34, par. 40, *amended*. maternity leave

40. establish, subject to the regulations, special education programs to provide special education services for children who require such services; R.S.O. 1970, c. 424, s. 34, par. 42. special education

41. when requested by the board of a cerebral palsy treatment centre school, a crippled children's treatment centre school, a hospital school or a sanatorium school, and with the approval of the Minister, by agreement, assume the assets and liabilities of such board and continue to operate such a school, and, upon the effective date of the agreement between the two boards, the board making the request is dissolved; 1971, c. 90, s. 5 (4). assumption of treatment centres, etc.

42. where a recreation committee or a joint recreation committee has been appointed for territory without municipal organization within the jurisdiction of the board, exercise the powers and duties of a municipal council with respect to preparing estimates of the sums required during the year for the purposes of the committee or joint committee, and levying rates and collecting taxes for such purposes on the rateable property supporting the board in such territory, and where such a joint recreation committee has been appointed, apportion the costs of such committee by agreement with the other board concerned; R.S.O. 1970, c. 424, s. 34, par. 45. recreation committees

43. with the approval of the Minister, enter into an agreement with a university, college of a university, or the board of governors of a polytechnical institute or of a college of applied arts and technology in respect of the provision, maintenance and use of educational or recreational facilities on the property of either of the parties to the agreement. agreement for provision and use of recreational facilities

44. pass a resolution referred to in subsection 2 of section 81 of *The Municipal Elections Act, 1972*. *New*. election recounts 1972, c. 95

(2) In addition to any other remedy possessed by a board in territory without municipal organization for the recovery of rates imposed under the authority of this Act, the board, with the approval of the Minister, may bring an action in a court of competent jurisdiction for the recovery of any rates in arrear against the person assessed therefor. R.S.O. 1970, c. 424, s. 35, *amended*. Collection of rates in territory without municipal organization by action

148.—(1) Any person may, with the approval of the board concerned, establish scholarships, bursaries or prizes. Establishment of scholarships, etc.

Idem

(2) A board may award bursaries or prizes to its pupils under such terms and conditions as the board may prescribe. R.S.O. 1970, c. 425, s. 68.

Vocational Courses

Vocational courses

149.—(1) A secondary school board may provide vocational courses of study in one or more of its schools.

Courses of study

(2) Vocational courses of study may comprise,

(*a*) full-time day courses of study;

(*b*) part-time day courses of study; and

(*c*) evening courses of study.

Admission procedures

(3) A secondary school board may provide for the admission of a pupil to a vocational course and may determine the procedures for admission to such course. R.S.O. 1970, c. 425, s. 11 (1, 2).

Admission of adult

(4) Where a principal of a school is satisfied that an adult is competent to receive instruction in a vocational course, the adult may, without regard to his school standing, be admitted to,

(*a*) a special full-time day course of study;

(*b*) a part-time day course of study; or

(*c*) an evening course of study,

in the school. R.S.O. 1970, c. 425, s. 12 (4).

Advisory committee

150.—(1) A secondary school board that provides or plans to provide a vocational course may, by resolution, appoint an advisory committee to be known as the advisory committee for.....(*inserting the name of the vocational course*) and composed of such persons, all or any of whom may be members of the board, appointed for such term, not extending beyond the term of office of the members of the board, as the board considers necessary to advise the board on matters relating to the vocational course.

Allowance

(2) A secondary school board may pay to each person appointed under subsection 1 who is not a member of the board such allowance as the board may determine for each month for which he is appointed, but such allowance shall not exceed one-half of the amount determined under subsection 1 of section 164 based on the enrolment on the 30th day of September in the preceding year in all secondary schools that, on the 1st day of January of the current year, are operated by the board. 1972, c. 75, s. 4, *amended*.

Benefits

151. A board may, Powers of board

1. provide, by contract with an insurer licensed under *The Insurance Act*, accident, etc., insurance R.S.O. 1970, c. 224

   i. group accident insurance to indemnify a member of a board or of an advisory committee appointed by a board or his estate against loss in case he is accidentally injured or killed, and

   ii. group public liability and property damage insurance to indemnify a member of a board or of an advisory committee appointed by a board or his estate in respect of loss or damage for which he has become liable by reason of injury to persons or property or in respect of loss or damage suffered by him by reason of injury to his own property,

   while travelling on the business of the board or in the performance of his duties as a member of the board or of an advisory committee either within or outside the area over which the board has jurisdiction; R.S.O. 1970, c. 424, s. 34, par. 36.

2. where, in co-operation with business, industry or other enterprise, it provides for pupils training programs designed to supplement the courses given in its schools, provide, by contract with an insurer under *The Insurance Act*, accident insurance to indemnify such pupils against loss in case they are accidentally injured while participating in such a program and public liability insurance to insure such pupils and the board against loss or damage to the person or property of others while the pupils are participating in such a program; R.S.O. 1970, c. 424, s. 34, par. 39, *amended*. accident and public liability insurance re work-experience programs

3. provide, by contract with an insurer under *The Insurance Act*, accident and life insurance for pupils, the cost of which is to be paid on a voluntary basis by the parents or guardians. R.S.O. 1970, c. 424, s. 34, par. 41. insurance for pupils

152.—(1) Subject to *The Health Insurance Act, 1972*, a board by resolution may provide, Insurance, hospital and health services 1972, c. 91

(*a*) by contract either with an insurer licensed under *The Insurance Act* or with an association registered

R.S.O. 1970, c. 360

under *The Prepaid Hospital and Medical Services Act*,

(i) group life insurance for its employees or any class thereof,

(ii) group accident insurance or group sickness insurance for its employees or any class therof and their spouses and children, and

(iii) hospital, medical, surgical, nursing or dental services, or payment therefor, for employees or any class thereof and their spouses and children; and

(*b*) for payment by the board of the whole or part of the cost of any insurance or services provided under this subsection.

Contributions re insured services

1972, c. 91

(2) A board may by resolution provide for paying the whole or part of the cost to employees of insured services under *The Health Insurance Act, 1972*. 1972, c. 77, s. 24.

Participation of retired person in contract

(3) A board may retain a person who retires from employment with the board before he attains the age of sixty-five years in a group established for the purposes of a contract referred to in clause *a* of subsection 1 until he attains such age if he pays the full premium required to be paid to retain his participation in the contract. 1973, c. 92, s. 13.

Pensions

R.S.O. 1970, c. 324

153.—(1) A board, by resolution, may provide pensions for employees or any class thereof under *The Ontario Municipal Employees Retirement System Act*.

Idem

R.S.O. 1970, c. 284

(2) Notwithstanding subsection 1, a board that makes contributions to an approved pension plan, as defined in subsection 1 of section 250 of *The Municipal Act*, may continue to provide pensions under such plan, and the said section 250 applies *mutatis mutandis*. 1972, c. 77, s. 23.

Interpretation

(3) In this section, "employee" does not include a teacher or supervisory officer or an administrative officer who holds a certificate of qualification as a teacher and who is eligible to contribute to the Teachers' Superannuation Fund.

Employees of newly organized board

(4) An employee of a divisional board who was a contributor or who was entitled to be a contributor under *The Ontario Municipal Employees Retirement System Act*, by reason of his employment with a former board on the 31st day of December, 1968, shall continue to be a contributor or to be entitled to be a contributor, as the case may

be, and the divisional board shall assume in respect of such employee all the rights and obligations of the former board, but in respect of other employees, the divisional board, before such employees may participate under such Act, shall pass a resolution electing to become a participant under such Act, as required by the regulations made thereunder, and stating the effective date.

Assumption of board of rights and obligations of former board

(5) A divisional board that is required to make the contribution of a former board to an approved pension plan, as defined in section 250 of *The Municipal Act*, in respect of an employee who was a contributor to such approved pension plan on the 31st day of December, 1968, shall assume all the rights and obligations of such former board under the approved pension plan in respect of such employee. R.S.O. 1970, c. 424, s. 43 (2-4).

R.S.O. 1970, c. 284

Saving

(6) Nothing in this section affects any pension plan established and approved by the Minister before the 6th day of April, 1954 under section 39 of *The High Schools Act*, section 129 of *The Public Schools Act* or section 83 of *The Separate Schools Act*. R.S.O. 1970, c. 424, s. 99 (1).

R.S.O. 1950, cc. 165, 316, 356

Retirement allowances

154.—(1) A board may grant an annual retirement allowance, payable weekly, monthly or otherwise for such period as the board may determine, to any employee of the board who has been in the service of the board for at least twenty years and who,

(*a*) is retired because of age; or

(*b*) while in the service has become incapable through illness or otherwise of efficiently discharging his duties,

provided that no retirement allowance shall be granted under this section which, together with the amount of any pension payments payable to the employee in any year under a pension plan of the board or any municipality or under *The Teachers' Superannuation Act*, will exceed three-fifths of his average annual salary for the preceding three years of his service.

R.S.O. 1970, c. 455

Widow or widower

(2) Where an employee,

(*a*) has been granted an annual retirement allowance under subsection 1 and subsequently dies; or

(*b*) would have been eligible, except for his death, for such an allowance,

the board may grant to the widow or widower of such employee for such period as the board may determine an annual allowance, not exceeding one-half of the maximum allowance that may be granted under subsection 1.

Interpretation

(3) In subsection 1, "pension payments" means, in the case of pension payments under a board or municipal plan, only such payments that result from joint contributions of the employer and employee and does not include any such payments that result solely from contributions of the employee.

Limitation on application of section

(4) Where the board has a pension plan in operation, or where a municipality has a pension plan in operation in which the employees of the board are included, this section applies only to employees who were in the employ of the board on or before the 1st day of July, 1954, and in any event does not apply to any employee who enters the service of the board after the 1st day of July, 1956. R.S.O. 1970, c. 424, s. 45.

Idem

R.S.O. 1950, cc. 165, 316

(5) Nothing in this section affects any retirement allowance granted before the 6th day of April, 1954 under section 60 of *The High Schools Act* or section 128 of *The Public Schools Act*. R.S.O. 1970, c. 424, s. 99 (3).

Sick leave credits

155.—(1) A board, by resolution, may establish a system of sick leave credit gratuities for employees or any class thereof provided that on the termination of his employment no employee is entitled to more than an amount equal to his salary, wages or other remuneration for one-half the number of days standing to his credit and in any event not in excess of the amount of one-half year's earnings at the rate received by him immediately prior to termination of employment.

Allowing of credits on transfer of employment

(2) Where an employee of a board that has established a sick leave credit plan under this or any other general or special Act becomes an employee of another board that has also established a sick leave credit plan under this or any other general or special Act, the latter board shall, subject to the limitation in subsection 5, place to the credit of the employee the sick leave credits standing to the credit of the employee in the plan of the first-mentioned board. R.S.O. 1970, c. 424, s. 44 (1, 2).

Where transferred because of change in jurisdiction of board

(3) Notwithstanding subsection 2, where the contract of employment of an employee of a board has become an obligation of another board by or under any Act, the latter board shall place to the credit of the employee the sick leave credits and the termination of employment benefits standing to his credit in the system of sick leave credit gratuities of the first-mentioned board. 1973, c. 118, s. 1.

(4) Where an employee of a municipality or a local board, as defined in *The Municipal Affairs Act*, except a school board, that has established a sick leave credit plan under any general or special Act, becomes an employee of a board that has established a sick leave credit plan under this or any other general or special Act, the board shall, subject to the limitation in subsection 5, place to the credit of the employee the sick leave credits standing to the credit of the employee in the plan of such municipality or local board. Idem R.S.O. 1970, c. 118

(5) The amount of sick leave credits placed to the credit of an employee under subsection 2 or 4 shall not exceed the amount of cumulative sick leave credits permitted under the plan to which the credits are placed. Limitation

(6) Subsections 2 and 4 apply only where the transfer of employment from a school board to another school board or from a municipality or a local board to a school board is made without intervening employment that interrupts the continuity of employment under which sick leave credits are accumulated. Application of subss. 2, 4, where intervening employment

(7) Notwithstanding subsection 6, intervening employment with the Ministry of Education does not preclude the application of subsections 2 and 4. R.S.O. 1970, c. 424, s. 44 (3-6). Exception

(8) Where an employee of a board that, before the 1st day of June, 1968, had established a sick leave credit plan became, on the 1st day of January, 1969, an employee of a divisional board or of a county or district combined separate school board, such board shall place to the credit of the employee the sick leave credits and the termination of employment benefits standing to his credit in the plan of the first-mentioned board. R.S.O. 1970, c. 425, s. 30 (11); R.S.O. 1970, c. 430, s. 86 (10). Applicability of sick leave credits

(9) Nothing in this section affects any sick leave credit plan established and approved by the Minister before the 6th day of April, 1954 under section 40 of *The High Schools Act*, section 130 of *The Public Schools Act* or section 84 of *The Separate Schools Act*. R.S.O. 1970, c. 424, s. 99 (2). Idem R.S.O. 1950, cc. 165, 316, 356

Agreements

156.—(1) A board may, subject to subsection 2, enter into an agreement with another board to provide, for the other board for such periods and under such conditions as are specified in the agreement, Agreements to provide accommodation or services for another board

(*a*) accommodation for administrative purposes;

(*b*) accommodation for instructional purposes;

(*c*) the services of teachers and other personnel; or

(*d*) the transportation of pupils,

that the board by this Act is authorized or required to provide for its own pupils.

Where building, additions, etc., required

(2) Where the construction of a school building or an addition, alteration or improvement to a school building is required under an agreement made under subsection 1, the agreement shall make provision for the payment of the cost of such building, addition, alteration or improvement and is not effective until approved by the Minister. 1972, c. 77, s. 19, *amended*.

Where cost borne by board not providing accommodation

(3) Where, under an agreement, the board that does not provide the additional accommodation is required to bear and pay the cost thereof, the additional accommodation shall, for the purposes of issuing debentures, be deemed to be a permanent improvement of such board. R.S.O. 1970, c. 385, s. 6.

Fees, exception

(4) An agreement under this section may, notwithstanding the regulations, provide for the calculation and payment of fees in respect of pupils covered by the agreement. R.S.O. 1970, c. 385, s. 6 (1) (*c*), *amended*.

Interpretation

157.—(1) In this section,

(*a*) "board" includes The Metropolitan Toronto School Board;

(*b*) "municipality" includes a county and a district, metropolitan or regional municipality and a local board of a municipality or county or of a district, metropolitan or regional municipality, except a school board.

Agreements for joint use of facilities, etc.

(2) One or more boards and the council of a municipality or the councils of two or more municipalities may enter into an agreement,

(*a*) in respect of the use of existing facilities owned by one of such parties; or

(*b*) for the purpose of establishing and providing for the maintenance and operation of facilities on the property of any of the parties to such agreement,

for such cultural, recreational, athletic, educational, administrative or other community purposes as are set out in the agreement, and such agreement shall include provision for,

(*c*) the acquisition of any land that may be required for the purposes of the agreement, and the manner of approving and the method of apportioning the cost thereof;

(*d*) the manner of approving and the method of apportioning the cost of the construction, maintenance and operation of the facilities;

(*e*) the manner in which each party to the agreement shall pay its portion of the costs referred to in clauses *c* and *d* and the times when such costs shall be paid;

(*f*) the regulation, control and use of the facilities including the charging of fees for admission thereto; and

(*g*) the duration of the agreement and the manner in which and the terms upon which it may be terminated.

Approval of Minister

(3) Where, pursuant to an agreement made under this section, a permanent improvement is required, it shall not be proceeded with until such plans and specifications therefor as are required by the Minister have been approved by the Minister.

Previous agreement

(4) This section does not affect an agreement entered into before the 23rd day of June, 1972,

R.S.O. 1970, c. 295

(*a*) under subsection 2 of section 143 of *The Municipality of Metropolitan Toronto Act*; or

(*b*) between a board and the council of a municipality, including a regional municipality or a county, or a a local board thereof, for fulfilling, executing or completing, at their joint expense or at the expense of either of the parties to the agreement, any undertaking for the joint benefit of the parties to the agreement, including the joint use of educational and municipal facilities,

but after the 23rd day of June, 1972, an amendment to an agreement referred to in clause *a* or *b* or an agreement to which the said subsection 2 of section 143 applies may be made only in accordance with this section. 1972, c. 77, s. 20.

Facilities deemed community recreation centre

(5) Where an agreement under this section or an agreement referred to in subsection 4 between one or more boards and one or more municipalities provides for the use of existing facilities or for the establishment of facilities, such facilities or any of them that come within the definition of community recreation centre under *The Community*

1974, c. 80

Recreation Centres Act, 1974 may be considered by the Minister of Community and Social Services as a community recreation centre for the purposes of making grants under section 6 of that Act. *New.*

Agreement between public school boards

158.—(1) A public school board may enter into an agreement with another public school board under which one public school board shall furnish education for pupils of the other upon payment by such other public school board on behalf of such pupils of fees calculated in accordance with the regulations. R.S.O. 1970, c. 385, s. 5 (12), *amended.*

Agreement between separate school boards

(2) A separate school board may enter into an agreement with another separate school board under which one separate school board shall furnish education for pupils of the other upon payment by such other separate school board on behalf of such pupils of fees calculated in accordance with the regulations. R.S.O. 1970, c. 430, s. 25 (12), *amended.*

Admission of pupils to Indian schools

R.S.C. 1970, c. I-6

(3) The board of an elementary school may provide for the admission of one or more of its pupils to a school for Indian children established, operated and maintained under the *Indian Act* (Canada), subject to the approval of the authority having control of such school, and the accommodation provided under such arrangement shall be in lieu of the accommodation that the board is required by this Act to provide for such pupils.

Levy for fees, transportation, etc.

(4) The board of an elementary school may levy and collect upon the property rateable for the purposes of the board such sum as may be necessary to pay the fees of its pupils who attend schools for Indian children pursuant to subsection 3 and to pay for the transportation of such pupils to and from such schools as well as such other sums as the board considers expedient or as may be required by this Act.

Closing of school by board

(5) Where a board has arranged under this section for the admission of all its pupils to a school or schools that the board does not operate, the board may close its schools for the period during which such arrangement or arrangements are in effect. R.S.O. 1970, c. 385, s. 53, *amended.*

Agreements for education of public and separate school pupils

159. A public school board and a separate school board may enter into an agreement in respect of the provision of education in a public or separate school under the jurisdiction of either board for pupils of the other board in a course or courses that are not available in a school under the jurisdiction of the board requiring the provision of education or that are considered by such board to be not readily accessible to the pupils in respect of whom the agreement is made where,

(*a*) the appropriate supervisory officer of the board providing education certifies that accommodation is available in such school for such pupils; and

(*b*) the board requiring the provision of education pays for each such pupil a fee calculated in accordance with the regulations. R.S.O. 1970, c. 385, s. 5 (13); R.S.O. 1970, c. 430, s. 25 (13), *amended*.

Secondary school agreements

160.—(1) The board of a secondary school district that is not a school division may, in lieu of establishing and maintaining a school, enter into an agreement with another secondary school board to provide for the instruction of its pupils in the schools under the jurisdiction of that board and for the payment in respect of such pupils of fees calculated in accordance with the regulations.

Agreements for education at outside schools

(2) A secondary school board that has established one or more secondary schools may enter into an agreement with another secondary school board to provide for the instruction, in the school or schools maintained by the latter board, of resident pupils of the first-mentioned board and for the payment in respect of such pupils of fees calculated in accordance with the regulations. R.S.O. 1970, c. 425, s. 60, *amended*.

Agreements re pupils in federal establishments

161. A board may enter into an agreement with the Crown in right of Canada for such periods and under such conditions as are specified in the agreement whereby the board may provide for the education of pupils who reside on land held by the Crown in right of Canada in a school or schools operated by the board on land owned by the board or by the Crown in right of Canada. R.S.O. 1970, c. 424, s. 38.

Agreements re accommodation for Indian pupils

162.—(1) A board may enter into an agreement with the Crown in right of Canada for a period specified in the agreement to provide accommodation and tuition for the maximum number of Indian pupils agreed upon, and the fees therefor shall be calculated in accordance with the regulations.

Idem

(2) A board may enter into an agreement with the Crown in right of Canada for a period specified in the agreement to provide for a payment from the Crown in right of Canada to provide additional classroom accommodation and to provide tuition for a maximum of thirty-five Indian pupils for each additional classroom so provided, and the fees therefor shall be calculated in accordance with the regulations, but exclusive of expenditures for the erection of school buildings for instructional purposes and additions thereto. R.S.O. 1970, c. 424, s. 37 (1, 2); 1971, c. 90, s. 6 (1, 2), *amended*.

Cost of special services

(3) A board shall not enter into an agreement under subsection 1 or 2 that requires the board to provide special services for Indian pupils that it does not provide for its resident

pupils unless, in addition to the fees referred to in subsection 1 or 2, the cost of such services is payable by the Crown in right of Canada. 1973, c. 92, s. 11, *amended*.

Appointment of representative of Indian pupils

(4) Where a board has entered into one or more agreements under this section, the council of the Indian band, or the councils of the Indian bands, to which the Indian pupils, or a majority of the Indian pupils, who are, pursuant to the agreement or agreements, enrolled in the schools operated by the board, belong, may, subject to subsection 5, name one person to represent on the board the interests of the Indian pupils and, where a person is so named, the board shall, subject to subsection 6, appoint the person a member of the board, and the member so appointed shall be deemed to be an elected member of the board, except that,

(*a*) where the agreement or agreements under this section are in respect of secondary school pupils only, the member so appointed is a trustee for secondary school purposes only and shall not vote on a motion or otherwise take part in any proceedings that affect public schools exclusively; and

(*b*) where the agreement or agreements under this section are in respect of elementary school pupils only, the member so appointed is a trustee for elementary school purposes only and shall not vote on a motion or otherwise take part in any proceedings that affect secondary schools exclusively.

Additional representative

(5) Where the number of Indian pupils enrolled in the schools under the jurisdiction of a divisional board or a county or district combined separate school board pursuant to one or more agreements made under this section exceeds 25 per cent of the average daily enrolment in the schools of the board, two persons may be named under subsection 4, and subsection 4 applies *mutatis mutandis* in respect of such persons.

Where appointment in discretion of board

(6) Where the number of Indian pupils enrolled in the schools under the jurisdiction of the board pursuant to one or more such agreements is fewer than the lesser of 10 per cent of the average daily enrolment in the schools of the board and 100, the appointment under subsection 4 may be made at the discretion of the board.

Enrolment

(7) Where the agreement is, or the agreements are, in respect of elementary school pupils only or secondary school pupils only, the enrolment referred to in subsections 5 and 6 shall be that of elementary school pupils only or secondary school pupils only, as the case may be.

(8) A member of the board appointed under subsection 4, 5 or 6 is in addition to the number of members of the board otherwise provided for in this Act and the term of office of such member terminates on the same date as the term of office of the elected members. 1972, c. 77, s. 21.

Appointed members in addition to elected members

(9) Where the office of a member of a board appointed under this section becomes vacant for any reason, it shall be filled in accordance with subsection 4, and the person so appointed shall hold office for the remainder of the term of his predecessor. *New.*

Vacancy in office

Transportation

163.—(1) A board may provide for,

Transportation of pupils

(*a*) a resident pupil of the board who is enrolled in a school that the board operates or in a school operated by another board to which the board pays fees in respect of such pupil; and

(*b*) a pupil in respect of whom the Minister pays the cost of education under the regulations,

transportation to and from the school that the pupil attends and to and from an activity that is part of the program of such school. R.S.O. 1970, c. 424, s. 42 (1), *amended.*

(2) A board may provide for a person who is qualified to be a resident pupil of the board transportation to and from the Ontario School for the Blind, an Ontario School for the Deaf, a facility designated under *The Developmental Services Act, 1974,* and a psychiatric facility designated as such under *The Mental Health Act.*

Idem

1974, c. 2

R.S.O. 1970, c. 269

(3) A secondary school board may assist in the provision of transportation for children who are qualified to be resident pupils of the board to and from a centre operated by a local association that is affiliated with the Ontario Association for the Mentally Retarded. *New.*

Idem

(4) For the purposes of this section, a board may purchase a vehicle either from current revenue or from a debenture issued for that purpose.

Purchase of bus

(5) Subject to subsection 6, for the purposes of this section, a board may make an agreement or agreements for one school year or less with a corporation, commission or person for the transportation of such pupils.

Agreements

(6) Where a board provides transportation for more than thirty pupils, the board may, with the approval of the Ontario Municipal Board, make an agreement for a term not exceeding five years for the transportation of such pupils.

Agreements not exceeding five years

Boarding of secondary school pupils residing in territorial district

(7) Where a pupil resides in a school section or separate school zone in a territorial district but not in a school division with his parent or guardian in a residence that is fifteen miles or more by road or rail from a secondary school that he is eligible to attend, an elementary school board may, in lieu of providing daily transportation to and from school under subsection 1, reimburse the parent or guardian at the end of each month for the cost of providing for such pupil, board, lodging, and transportation once a week from his residence to school and return, in an amount set by the board for each day of attendance as certified by the principal of the secondary school that the pupil attends.

Idem

(8) Where a pupil resides in a territorial district but not in a school section, a separate school zone or a school division, with his parent or guardian in a residence that is fifteen miles or more by road or rail from a secondary school that he is eligible to attend, the board of the secondary school that he attends may reimburse the parent or guardian at the end of each month for the cost of providing for such pupil, board, lodging, and transportation once a week from his residence to school and return, in an amount set by the board for each day of attendance as certified by the principal of the secondary school that the pupil attends.

Idem

(9) Where a pupil resides with his parent or guardian in a school division in a residence that,

(*a*) in a territorial district is fifteen miles or more; or

(*b*) in a county is thirty miles or more,

by road or rail from a secondary school that he attends, or where a pupil resides with his parent or guardian on an island in a school division, the board of the school division of which he is a resident pupil may, in lieu of providing daily transportation to and from the secondary school that he attends, reimburse the parent or guardian at the end of each month for the cost of providing for such pupil, board, lodging, and transportation once a week from his residence to school and return, in an amount set by the board for each day of attendance as certified by the principal of the secondary school that the pupil attends.

Boarding and transportation of secondary school pupils in a territorial district taking "francais" subject

(10) Where a secondary school pupil resides in a territorial district in a school division with his parent or guardian in a residence that is fifteen miles or more by road or rail from a secondary school in which the subject of French, taught as a subject for students who normally speak the French language, is offered as one of the subjects of the courses of study, an elementary school board may reimburse the parent or guardian at the end of each month for the cost of providing for such

pupil, when not so provided by the secondary school board, board, lodging, and transportation once a week from his residence to school and return, in an amount set by the board for each day of attendance as certified by the principal of the secondary school that the pupil attends, or may furnish transportation for such pupil in lieu thereof.

Boarding of elementary school pupils residing in territorial districts

(11) Where a pupil resides in a territorial district but not in a school section or a separate school zone, with his parent or guardian in a residence from which daily transportation to and from an elementary school that he may attend is impracticable due to distance or terrain, as certified by the appropriate supervisory officer of the elementary school nearest such residence, the board of the elementary school that he attends may reimburse the parent or guardian at the end of each month for the cost of providing for such pupil, board, lodging, and transportation once a week from his residence to school and return, in an amount set by the board for each day of attendance as certified by the principal of the elementary school that the pupil attends.

Boarding of elementary school pupils where transportation impracticable

(12) Where a pupil resides in a school section or a separate school zone with his parent or guardian in a residence from which daily transportation to and from an elementary school that he may attend is impracticable due to distance or terrain, as certified by the supervisory officer who has jurisdiction in the school section or the separate school zone, the board of the elementary school of which he is a resident pupil may reimburse the parent or guardian at the end of each month for the cost of providing for such pupil, board, lodging, and transportation once a week from his residence to school and return, in an amount set by the board for each day of attendance as certified by the principal of the elementary school that the pupil attends.

Certification of attendance

(13) For the purpose of certifying attendance under subsections 7 to 12, the principal may add to the number of days of attendance of a pupil the number of days the pupil is excused from attendance under the regulations or is absent by reason of being ill or is absent for any other cause if the principal is of the opinion that the absence was unavoidable. R.S.O. 1970, c. 424, s. 42 (5-14), *amended*.

Allowances

Allowance for members

164.—(1) A board may pay to each member of the board for each month an allowance not exceeding an amount based on the enrolment on the 30th day of September in the preceding year in all the schools which, on the 1st day of January of the current year, are operated by the board, as follows:

Enrolment	Maximum Monthly Allowance
Fewer than 2,000	$100
2,000 or more but fewer than 10,000	200
10,000 or more but fewer than 40,000	400
40,000 or more	600

Chairman, additional allowance

(2) A board may pay to its chairman, in addition to any allowance that may be paid to him as a member, an additional allowance not exceeding one-half of the allowance that may be paid to him as a member.

Travel expenses to attend board meetings

(3) In respect of travel of a member of the board to and from his residence to attend a meeting of the board, or a committee thereof, that is held within the area of jurisdiction of the board, the board may,

(*a*) reimburse the member for his expenses necessarily incurred therefor or such lesser amount as may be determined by the board; or

(*b*) pay the member a mileage allowance at a rate determined by the board.

Expenses for authorized travel on board business

(4) A board may authorize a member, teacher or official of the board to travel on designated business of the board, and may reimburse the member, teacher or official for his actual expenses incurred on business of the board, or such lesser amount as may be determined by the board.

Deduction because of absence

(5) A board may provide for a deduction of a reasonable amount from the allowance of a member because of absence from regular or committee meetings of the board.

Advisory committee members

(6) Subsections 3, 4 and 5 apply *mutatis mutandis* to members of a committee established by the board who are not members of the board. R.S.O. 1970, c. 424, s. 40, *amended*.

Property

School lands granted before 1850 vested in board for school purposes

165.—(1) All lands that before the 24th day of July, 1850, were granted, devised or otherwise conveyed to any person or persons in trust for common school purposes and held by such person or persons and their heirs or other successors in the trust, and have been heretofore vested in a public school board or a board of education having jurisdiction in the municipality in which the lands are situate, continue to be vested in such board, and continue to be held by it and its successors upon the like trusts and subject to the same conditions and for the estates upon or subject to or for which the lands are respectively held. R.S.O. 1970, c. 385, s. 9 (1).

Property in trust vested in board

(2) All property heretofore granted or devised to, acquired by or vested in any person or corporation,

(*a*) for the secondary school purposes of a secondary school district or any part thereof; or

(*b*) for the separate school purposes in a separate school zone,

is vested in the board having jurisdiction in the secondary school district or separate school zone, as the case may be. R.S.O. 1970, c. 430, s. 50 (1) (*i*), *part*; 1972, c. 75, s. 3, *amended*.

Possession of property

166.—(1) A board may take possession of all property acquired or given for school purposes and hold and apply it according to the terms on which it was acquired or given. R.S.O. 1970, c. 385, s. 51 (2) (*a*).

Idem

(2) A separate school board has power to acquire and hold as a corporation, by any title whatsoever, land, movable property, money or income given to or acquired by the board at any time for school purposes and hold or apply the same according to the terms on which it was acquired or received. R.S.O. 1970, c. 430, s. 50 (1) (*i*), *part*.

Appropriation of property

(3) A board of education may appropriate any property acquired by it or in its possession or control for any of the purposes of the board but, where public school property is appropriated for secondary school purposes, the value of the property so appropriated or the revenue derived therefrom shall be applied for public school purposes and, where secondary school property is appropriated for public school purposes, the value of the property so appropriated or the revenue derived therefrom shall be applied for secondary school purposes. R.S.O. 1970, c. 425, s. 23, *amended*.

Disposal of lands patented to boards for school purposes

167.—(1) Lands originally granted or conveyed by the Crown for school purposes and held by a board may be leased, sold or otherwise disposed of with the approval of the Lieutenant Governor in Council and upon such conditions as to the investment or application of the proceeds or otherwise as may be prescribed in the order granting the approval. R.S.O. 1970, c. 385, s. 9 (2).

Application for removal of restrictions on use of school lands

(2) Where land, the use of which is restricted by deed in any manner to school purposes so as to appear that some other person may have an interest therein, has been vested in a board for at least fifty years, the board may apply to the Supreme Court to remove the restriction, and the Supreme Court may make such order on the application as it considers just including, where the land adjoins land being used as a farm, a requirement that the board shall, where the board intends to sell the land, first offer it at a reasonable price to the owner or owners of such adjoining land. R.S.O. 1970, c. 385, s. 10, *amended*.

Lease or sale of site or property

(3) Subject to subsection 4, a board has power to sell, lease or otherwise dispose of any school site or part thereof or property of the board upon the adoption of a resolution that such site or part or property is not required for the purposes of the board, and the board shall apply the proceeds thereof for the purposes of the board and shall advise the Minister of the sale, conveyance or transfer, or of the lease where the term thereof exceeds one year, of any of its schools. R.S.O. 1970, c. 385, s. 51 (2) (*b*); R.S.O. 1970, c. 425, s. 9 (2); R.S.O. 1970, c. 430, s. 50 (1) (*i*), ***part, amended***.

Disposal of buildings
1953, c. 119

(4) Notwithstanding any general or special Act, including *The Metropolitan Separate School Board Act, 1953*, a board shall not sell, lease or otherwise dispose of a building or part thereof other than to another board or demolish a building, unless, in addition to any other approval that may be required, the board has obtained the approval of the Minister.

Exceptions

(5) Subsection 4 does not apply,

(*a*) to the use of a building or part thereof pursuant to an agreement under section 157; or

(*b*) where a building or part thereof is in use as a school, to the use of the building or part for any purpose that does not interfere with the proper conduct of the school. 1973, c. 92, s. 2, ***amended***.

Board may purchase or expropriate within its jurisdiction

168.—(1) Subject to the provisions of Part IV as to the selection of a site by a rural separate school board, every board may acquire, by purchase or lease, or may expropriate, a school site that is within its area of jurisdiction.

Purchase or lease of site in adjoining jurisdiction

(2) A public school board, board of education or secondary school board may, with the approval of the Minister, acquire by purchase or lease a school site in an adjoining school section or secondary school district, as the case may be, for the purpose of operating a school thereon, but the board shall not expropriate any such site.

Separate school board may purchase or expropriate within its designated area

(3) A county or district combined separate school board may acquire by purchase or lease, or may expropriate, a school site that is within the area designated in respect of such board by regulation made under subsection 2 of section 103 but that is not within the county or district combined separate school zone, for the purpose of operating a school thereon. 1972, c. 77, s. 27, ***part***.

School outside designated area

(4) A county or district combined separate school board may, with the approval of the Minister, acquire by purchase or lease a school site that is outside the area designated in respect of such board by regulation made under subsection 2 of section 103 and may operate thereon a separate school, but a county or district combined separate school board shall not expropriate any such site.

(5) Notwithstanding section 80, the operation of a separate school on a school site acquired under subsection 4 does not, thereby, establish a separate school zone with a centre at such site. 1972, c. 76, s. 28, *part*. Zone not established

(6) Subject to section 169, a board may erect, add to or alter buildings for its purposes on land owned by the board. Buildings on land owned by board

(7) A board may erect a school building on land that is leased by the board where the term of the lease, the school site and the plans of the school building are approved by the Minister. 1973, c. 92, s. 16, *amended*. Buildings on leased land

(8) A board may, with the approval of the Minister, make an addition, alteration or improvement to a school building that is acquired by the board under a lease. 1972, c. 77, s. 27, *part*, *amended*. Additions or alterations

169. Where a board plans to provide, other than by way of a lease, accommodation for pupils on a school site that is not to be occupied or used exclusively by the board, the board shall obtain the prior approval of the Minister to enter into negotiations with a person, other than a board or a municipality, in respect of the provision of such accommodation, and an agreement for such purposes may be entered into with such person only after the proposed agreement, the plans of the school and of the building of which it may be a part and the site have been approved by the Minister. 1972, c. 77, s. 28. Agreement for multi-use building

Out-of-Classroom Programs

170.—(1) A board may acquire by purchase or by lease land in any municipality or territory without municipal organization in Ontario for the purpose of conducting a natural science program and other out-of-classroom programs as the board may direct, and for such purposes may, with the approval of the Minister, build and operate the necessary facilities. Acquisition of land for natural science programs

(2) Two or more boards may enter into an agreement for a specified period whereby one of the boards may acquire by purchase or by lease land in any municipality or territory without municipal organization in Ontario for the purpose of conducting a natural science program and other out-of-classroom programs and, for such purposes, such board may, with the approval of the Minister, build and operate the necessary facilities. Agreements between boards

(3) All land acquired by a board under subsection 1 or 2, so long as it is held by the board and is not situated, Taxation

(*a*) within the jurisdiction of the board or within the jurisdiction of another board with which the board has entered into an agreement under subsection 2; or

(*b*) in the case of a separate school board, within the area designated in respect of such board by regulation made under subsection 2 of section 103,

is subject to taxation for municipal and school purposes in the municipality in which it is situate.

Agreements with conservation authorities, etc.

(4) A board may enter into an agreement with a conservation or other appropriate authority under which the board may, with the approval of the Minister, construct and maintain on lands owned by the authority the necessary facilities for the purpose of conducting a natural science program or other out-of-classroom program.

Idem

(5) A board that conducts a natural science, conservation or other out-of-classroom program may enter into an agreement with a conservation or other appropriate authority for the use of the facilities and personnel of such authority for the purpose of conducting such a program as directed by the board. 1972, c. 77, s. 29.

Idem

(6) One or more boards may enter into an agreement with a conservation or other appropriate authority to provide for the construction, furnishing and equipping by the authority on lands owned by the authority of facilities for the purposes of conducting a natural science, conservation or other out-of-classroom program as directed by the board or one or more of the boards and, where under the agreement a board is required to pay all or part of the cost of the facilities, the construction of the facilities shall be first approved by the Minister, and the amount paid therefor by the board shall be deemed to be an expenditure made by the board for a permanent improvement. *New*.

Board and lodging for courses in conservation

(7) A board may provide or pay for board and lodging for a pupil for a period not exceeding two weeks in any year while he participates, with the consent of his parent or guardian and with the permission of the board, in a natural science, conservation or other out-of-classroom program. R.S.O. 1970, c. 424, s. 34, par. 34.

Officers

Duties of secretary

171.—(1) The secretary of a board is responsible for,

(*a*) keeping a full and correct record of the proceedings of every meeting of the board in the minute book provided for that purpose by the board and ensuring that the minutes when confirmed are signed by the chairman or presiding member;

(*b*) transmitting to the Ministry copies of reports requested by the Ministry;

(*c*) giving notice of all meetings of the board to each of the members by notifying him personally or in writing or by sending a written notice to his residence;

(*d*) calling a special meeting of the board on the request in writing of the majority of the members of the board; and

(*e*) performing such other duties as may be required of him by the regulations, by this Act or by the board. R.S.O. 1970, c. 424, s. 51; R.S.O. 1970, c. 430, s. 32, *amended*.

Security by officers

(2) Every treasurer and collector of a board and, if required by the board, any other officer of a board shall give security for the faithful performance of his duties, and the security shall be deposited for safekeeping as directed by the board.

Form of security

R.S.O. 1970, c. 196

(3) The security to be given shall be by the bond, policy or guarantee contract of a guarantee company as defined in *The Guarantee Companies Securities Act*. R.S.O. 1970, c. 424, s. 52.

Failure to take security

(4) If a board refuses or neglects to take proper security from the treasurer or other person to whom it entrusts school moneys and any school money is forfeited or lost in consequence of the refusal or neglect, every member of the board is personally liable for such moneys, which may be recovered by the board or by any ratepayer assessed for the support of the school or schools under the jurisdiction of the board suing on behalf of himself and all other such ratepayers in a court of competent jurisdiction, but no member is liable if he proves that he made reasonable efforts to procure the taking of the security. R.S.O. 1970, c. 424, s. 59.

Duties of treasurer

(5) Every treasurer of a board shall,

(*a*) receive and account for all school moneys;

(*b*) open an account or accounts in the name of the board in such of the chartered banks of Canada or in such other place of deposit as may be approved by the board;

(*c*) deposit all moneys received by him on account of the board, and no other moneys, to the credit of such account or accounts;

(*d*) disburse all moneys as directed by the board; and

(*e*) produce, when required by the board or by auditors or other competent authority, all papers and moneys in his possession, power or control belonging to the board. R.S.O. 1970, c. 424, s. 53.

Business administrator

(6) Where a board determines that one or more persons should be employed full time to carry out the duties of a secretary or treasurer or both, it may appoint one or more business administrators and one or more assistant business administrators and may assign to a person so appointed any of the duties of the secretary, treasurer and supervisor of maintenance of school buildings. R.S.O. 1970, c. 424, s. 41.

Responsibility of officers

172. Every officer appointed by a board is responsible to the board through its chief executive officer for the performance of the duties assigned to him by the board. *New.*

School Board Advisory Committees

Interpretation

173. In sections 174 to 178, "committee" means a school board advisory committee established under section 174. R.S.O. 1970, c. 424, s. 83 (*b*).

Committee establishment

174. A board of education, a county or district combined separate school board or the Metropolitan Separate School Board may establish a school board advisory committee. R.S.O. 1970, c. 424, s. 84.

Composition

175.—(1) The committee shall be composed of,

(*a*) three members of the board appointed by the board;

(*b*) the chief education officer of the board or his nominee;

(*c*) six teachers employed by the board, appointed by the teachers in the employ of the board;

(*d*) four persons appointed by the board who are neither teachers nor members of a board, but who are resident within the jurisdiction of the board; and

(*e*) the persons appointed under subsections 2 and 3. R.S.O. 1970, c. 424, s. 85 (1).

Separate school board

(2) In the case of a separate school board,

(*a*) where the Diocesan Council or Councils of the Federation of Catholic Parent-Teacher Associations

of Ontario organized in the area of jurisdiction of the board so recommend, the board shall appoint to the committee one person selected by the Council or Councils;

(*b*) where the Federation des Associations de Parents et Instituteurs de langue francaise de l'Ontario organized in the area of jurisdiction of the board so recommends, the board shall appoint one person selected by the regional section and, where there is no regional section, by the local section of such Federation; and

(*c*) where no recommendation and appointment is made under clause *a*, a recommendation and appointment of two persons may be made under clause *b* and, where no recommendation and appointment is made under clause *b*, a recommendation and appointment of two persons may be made under clause *a*. 1972, c. 77, s. 34 (1).

(3) In the case of a board of education, Board of education

(*a*) where the Diocesan Council or Councils of the Federation of Catholic Parent-Teacher Associations of Ontario organized in the area of jurisdiction of the board so recommends, the board shall appoint to the committee one person selected by the Council or Councils;

(*b*) where the Home and School Council organized in the area of jurisdiction of the board so recommends, the board shall appoint to the committee one person selected by the Council;

(*c*) where the Federation des Associations de Parents et Instituteurs de langue francaise de l'Ontario organized in the area of jurisdiction of the board so recommends, the board shall appoint one person selected by the regional section and, where there is no regional section, by the local section of such Federation; and

(*d*) where no appointment is made under any two of clause *a*, *b* or *c*, two members may be appointed under the remaining clause. R.S.O. 1970, c. 424, s. 85 (3); 1972, c. 77, s. 34 (2).

(4) The teachers shall submit to the board, not later than the 31st day of January in each year, the names of the appointees under clause *c* of subsection 1. Notice of teacher appointees

Appointment and term of office

(5) Members of the committee shall be appointed on or before the 31st day of January in each year and shall hold office for one year.

Reappointment

(6) Except for the chief education officer, a member of the committee shall not hold office for more than three years in succession.

Vacancies

(7) Every vacancy on a committee occasioned by the death or resignation of a member, or by any other cause, shall be filled by a person qualified under subsection 1 and appointed by the body or person that appointed the member whose office has become vacant, and every person so appointed shall hold office for the unexpired portion of the term of such member. R.S.O. 1970, c. 424, s. 85 (4-7).

First meeting

176.—(1) The chairman of the board shall call the first meeting of the committee not later than the 28th day of February in each year, and shall preside at such meeting until the chairman of the committee is elected.

Chairman

(2) The chairman of the committee shall be elected by the committee at its first meeting in each year.

Quorum

(3) Eight members of the committee constitute a quorum and a vote of the majority of the members present is necessary to bind the committee.

Sub-committees

(4) The committee may establish such sub-committees as it considers necessary. R.S.O. 1970, c. 424, s. 86.

Recording secretary

177.—(1) The board shall provide a recording secretary for the committee.

Budget

(2) The committee shall, as required by the board, submit to the board for approval a budget of its estimated expenditures for the calendar year.

Expenditures

(3) The board shall pay such expenditures of the committee as are approved by the board. R.S.O. 1970, c. 424, s. 87.

Powers of committee

178.—(1) The committee may make reports and recommendations to the board in respect of any educational matter pertaining to the schools under the jurisdiction of the board.

Limitation

(2) Notwithstanding subsection 1, the committee shall not concern itself with salaries of employees of the board or with matters pertaining to personnel problems and policies relating to personnel.

(3) The board shall consider any report or recommendation submitted to it by the committee and shall not refuse its approval without having given the committee, or its representatives, an opportunity to be heard by the board. R.S.O. 1970, c. 424, s. 88. Consideration of reports

Access to Meetings and Records

179.—(1) The meetings of a board and meetings of a committee of the board, including a committee of the whole board, shall be open to the public except where a board determines that certain meetings of a committee of the board, including a committee of the whole board, shall not be open to the public, and no person shall be excluded from a meeting that is open to the public except for improper conduct. Open meetings of boards

(2) The presiding officer may expel or exclude from any meeting any person who has been guilty of improper conduct at the meeting. R.S.O. 1970, c. 424, s. 47, *amended*. Exclusion of persons

(3) Any person may, at all reasonable hours, at the head office of the board inspect the minute book, the audited annual financial report and the current accounts of a board, and, upon the written request of any person and upon the payment to the board at the rate of 25 cents for every 100 words or at such lower rate as the board may fix, the secretary shall furnish copies of them or extracts therefrom certified under his hand. R.S.O. 1970, c. 424, s. 54; 1972, c. 77, s. 25. Inspection of books and accounts

Board Meetings

180.—(1) A board shall be deemed to be constituted when a majority of the members to be elected or appointed has been elected or appointed. When board deemed constituted

(2) Where a board is elected or appointed, First meeting

(*a*) on or before the 31st day of December in any year, to be established in the following year, it shall hold its first meeting at 8.00 p.m. on the second Wednesday in January of the following year; and

(*b*) on or after the 1st day of January in any year, to be established in that year, it shall hold its first meeting at 8.00 p.m. on the second Wednesday following the election or appointment.

Supervisory officer may provide for calling first meeting

(3) Notwithstanding subsection 2, on the petition of a majority of the members of a newly elected or appointed board, the appropriate supervisory officer may provide for calling the first meeting of the board at some other time and date.

Presiding officer

(4) At the first meeting in each year, the chief executive officer shall preside until the election of the chairman or, if there is no chief executive officer or in his absence, the members present shall designate who shall preside at the election of the chairman and if a member of the board is so designated, he may vote at the election of the chairman.

Election of chairman

(5) At the first meeting in each year and at the first meeting after a vacancy occurs in the office of chairman, the members shall elect one of themselves to be chairman, and the chairman shall preside at all meetings.

Subsequent meetings

(6) Subsequent meetings of the board shall be held at such time and place as the board considers expedient.

Vice-chairman

(7) The members of the board may also elect one of themselves to be vice-chairman and he shall preside in the absence of the chairman.

Where equality of votes

(8) In the case of an equality of votes at the election of a chairman or vice-chairman, the candidates shall draw lots to fill the position of chairman or vice-chairman, as the case may be.

Temporary chairman

(9) If at any meeting there is no chairman or vice-chairman present, the members present may elect one of themselves to be chairman for that meeting.

Temporary secretary

(10) In the absence of the secretary from any meeting, the chairman or other member presiding may appoint any member or other person to act as secretary for that meeting.

Quorum

(11) The presence of a majority of all the members constituting a board is necessary to form a quorum, except that when a board of education is dealing with matters that affect public schools exclusively, the presence of a majority of the members elected to the board of education by the public school electors is necessary to form a quorum.

(12) Subject to subsection 4 of section 53, the presiding officer, except where he is the chief executive officer of the board and is not a member, may vote with the other members of the board upon all motions, and any motion on which there is an equality of votes is lost. R.S.O. 1970, c. 424, s. 48 (1-12), *amended*. Chairman, voting; equality of votes

(13) Special meetings of the board may be called by the chairman and in such other manner as the board may determine. R.S.O. 1970, c. 424, s. 48 (13); R.S.O. 1970, c. 430, s. 49, *amended*. Special meetings

181.—(1) Except as provided in subsection 2, every person elected or appointed to a board, on or before the day fixed for the first meeting of the new board, or on or before the day of the first meeting that he attends, shall make and subscribe the following declaration before the secretary of the board or before any person authorized to administer an oath and in default he shall be deemed to have resigned: Declaration

DECLARATION

I, ... *A.B.*, do solemnly declare that:

1. I am not disqualified under any Act from being a member of (*name of board*).

2. I will truly, faithfully, impartially and to the best of my ability execute the office of trustee, and that I have not received and will not receive any payment or reward or promise thereof for the exercise of any partiality or malversation or other undue execution of the said office.

Declared before me at .....in the County or District of .....this .....day of ....., 19.. } *A.B.*

(2) Where a person is elected or appointed to fill a vacancy on a board, he shall make such declaration on or before the day fixed for holding the first meeting of the board after his election or appointment or on or before the day of the first meeting that he attends and in default he shall be deemed to have resigned. Idem

Oath of allegiance

(3) Every person elected or appointed to a board, before entering on his duties as a trustee, shall take and subscribe before the secretary of the board or before any person authorized to administer an oath the oath of allegiance in the following form:

I, ... *A.B.* do swear that I will be faithful and bear true allegiance to Her Majesty, Queen Elizabeth II (*or the reigning sovereign for the time being*).

Sworn before me at .....in the County or District of .....this .....day of ....., 19.. } *A.B.*

Filing of declaration and oath

(4) The declaration and oath of allegiance shall be filed with the secretary of the board within eight days after the making or taking thereof, as the case may be. R.S.O. 1970, c. 424, s. 49.

Arbitrators

Arbitrators to send copy of award to board, etc.

182.—(1) Arbitrators acting under this Act shall send a copy of their award forthwith after the making thereof to the chief executive officer of the board and to the clerk of each municipality affected. R.S.O. 1970, c. 424, s. 102 (1); 1972, c. 77, s. 35.

Liability of parties for costs

(2) Such arbitrators shall determine the costs of the arbitration and shall direct to whom and by whom and in what manner such costs or any part thereof, and the fees under subsection 4, shall be paid, and such determination and direction is final.

Expenses

(3) An arbitrator is entitled to an allowance of 15 cents for each mile necessarily travelled by him to and from his residence to attend meetings of arbitrators together with his actual expenses for room and meals, incurred while attending such meetings, and such costs shall be included in the costs of the arbitration.

Fees

(4) Each arbitrator, shall be paid a fee,

(*a*) in the case of the Ontario Municipal Board, as determined by the Board;

(*b*) in the case of an arbitrator other than a supervisory officer, judge or member of the Ontario Municipal Board, at the rate of $20 for each sitting of a half-day or fraction thereof.

Application

(5) This section does not apply to a Board of Reference or the members thereof. R.S.O. 1970, c. 424, s. 102 (2-5), *amended*.

(6) This section, except subsection 4, applies to treasurers of municipalities who meet to arbitrate the apportionment of costs within a school division. *New.* Application to treasurers

Offences and Penalties

183. Every person who wilfully makes a false statement in a declaration required to be made under this Act is guilty of an offence and on summary conviction is liable to a fine of not more than $100. R.S.O. 1970, c. 424, s. 89, *amended.* False declaration

184.—(1) Every person who wilfully interrupts or disquiets the proceedings of a school or class is guilty of an offence and on summary conviction is liable to a fine of not more than $100. Disturbances

(2) Every person who, with intent, to prevent the discussion of any matter or the passing of any motion at a meeting of a board, or a committee of a board including a committee of the whole board disrupts or endeavours to disturb or interrupt the meeting after having been expelled or excluded from the meeting is guilty of an offence and on summary conviction is liable to a fine of not more than $100. R.S.O. 1970, c. 424, s. 90, *amended.* Idem

185.—(1) Every member of a board who sits or votes at any meeting of the board after becoming disqualified from sitting is guilty of an offence and on summary conviction is liable to a fine of not more than $100 for every meeting at which he so sits or votes. R.S.O. 1970, c. 424, s. 91 (3), *amended.* Acting while disqualified

(2) Every member of a board who knowingly signs a false report and every teacher who keeps a false school register or makes a false return is guilty of an offence and on summary conviction is liable to a fine of not more than $100. R.S.O. 1970, c. 424, s. 94, *amended.* False reports and registers

186. Every member of a board and every officer thereof who, Information to auditors

(*a*) withholds from the auditor access, at all reasonable hours, to the books, records, documents and vouchers of the board; or

(*b*) refuses or neglects to provide such information and explanations as the auditor may require,

is guilty of an offence and on summary conviction is liable to a fine of not more than $100, but no person is liable if he proves that he has made reasonable efforts to procure the furnishing of the papers or information. R.S.O. 1970, c. 424, s. 93, *amended.*

Delivery up of books and money

187.—(1) A person who holds or has held the office of treasurer, secretary or secretary-treasurer, and a member or other person who has in his possession any book, paper, chattel or money that came into his possession as such treasurer, secretary, secretary-treasurer, member or otherwise shall not wrongfully withhold, or neglect or refuse to deliver up, or account for and pay over the same to the person and in the manner directed by the board or by other competent authority.

Summons for appearance

(2) Upon application to the judge by the board, supported by affidavit, showing such wrongful withholding or refusal, the judge may summon the treasurer, secretary, secretary-treasurer, member or person to appear before him at a time and place appointed by him.

Service of summons

(3) A bailiff of a small claims court, upon being required so to do by the judge, shall serve the summons or a true copy thereof on the person complained against personally or by leaving it with a person apparently not under the age of sixteen years.

Order to account

(4) At the time and place so appointed, the judge, if satisfied that service has been made, shall, in a summary manner, and whether the person complained against does or does not appear, hear the complaint, and if he is of the opinion that it is well founded may order the person complained against to deliver up, account for and pay over such book, paper, chattel or money by a day to be named by the judge in the order, together with such reasonable costs incurred in making the application as the judge may allow. R.S.O. 1970, c. 424, s. 96 (1-4).

Other remedy not affected

(5) Such proceedings do not impair or affect any other remedy that the board or other competent authority may have against the person complained against or against any other person. R.S.O. 1970, c. 424, s. 96 (8).

Compelling delivery of books, money, etc., on dissolution of school corporation

188.—(1) Section 187 applies to the case of any person who has in his possession any books, paper, chattel or money that came into his possession as secretary or treasurer, or member, or otherwise, of a board that has been dissolved, and every such person shall deliver up, account for and pay over every such book, paper, chattel and all such money as provided in this Act and failing any such provision, as directed by the Minister, and in default thereof, proceedings may be taken against the person by two ratepayers in the same manner as in the case provided for by section 187 and that section *mutatis mutandis* applies.

(2) Subsection 1 applies to every person who has received from such secretary, treasurer, member or other person any book, paper, chattel or money, which by subsection 1 it is declared to be the duty of such secretary, treasurer, member or other person to deliver up, and the like proceedings may be taken against such first-mentioned person. R.S.O. 1970, c. 424, s. 97, *amended*. Application of subs. 1

189.—(1) No teacher, supervisory officer or other employee of a board or of the Ministry shall, for compensation of any kind other than his salary as such employee, promote, offer for sale or sell, directly or indirectly, any book or other teaching or learning materials, equipment, furniture, stationery or other article to any board, provincial school or teachers' college, or to any pupil enrolled therein. Promotion or sale of books, etc., by employees of board or Ministry to board, pupil, etc., prohibited

(2) Subsection 1 does not apply to a teacher, supervisory officer or any other employee in respect of a book or other teaching or learning materials of which he is an author where the only compensation that he receives in respect thereof is a fee or royalty thereon. Exception for authors

(3) No person or organization or agent thereof shall employ a teacher, supervisory officer or other employee of a board or of the Ministry to promote, offer for sale or sell, directly or indirectly, any book or other teaching or learning materials, equipment, furniture, stationery or other article to any board, provincial school or teachers' college, or to any pupil enrolled therein, or shall, directly or indirectly, give or pay compensation to any such teacher, supervisory officer or employee for such purpose. Employment of employee of board or Ministry to promote sale of books, etc., to board, pupil, etc., prohibited

(4) Every person who contravenes any provision of subsection 1 or 3 is guilty of an offence and on summary conviction is liable to a fine of not more than $500. R.S.O. 1970, c. 424, s. 98, *amended*. Penalty

Validity of Elections

190.—(1) Any person entitled to vote at the election of members of a board may commence an action by writ in the county or district court in the county or district in which the head office of the board is situate for a declaration that the office of a member of such board has become vacant under section 112, 181, 192, 193 or 202. Action for declaration that seat vacant

(2) No action shall be commenced under this section more than ninety days after the facts alleged to cause the vacancy in the board came to the knowledge of the person bringing such action. Time for bringing action

Power of court

(3) Where in an action under this section the court finds that the office of a member of the board has become vacant, the court may order that the member be removed from office and declare that the office is vacant.

Application of 1972, c. 95

(4) The provisions of sections 105 to 108 and 112 of *The Municipal Elections Act, 1972* apply *mutatis mutandis* to an action brought under this section.

Joining of claims

(5) A claim in an action under this section may be joined with a claim in an action under section 104 of *The Municipal Elections Act, 1972*, and such claim may be heard and disposed of in the same action. 1973, c. 92, s. 14.

Validity of elections and corrupt practices

(6) The provisions of *The Municipal Elections Act, 1972* in respect of the validity of elections and corrupt practices apply to an election of trustees that is not conducted under *The Municipal Elections Act, 1972*. 1972, c. 137, s. 2; 1973, c. 37, s. 3, *amended*.

PART VII

BOARD MEMBERS—QUALIFICATIONS, RESIGNATIONS AND VACANCIES

Employee disqualified

191. An employee of a board is not eligible to be elected a member of the board by which he is employed or entitled to sit or vote thereon. 1972, c. 77, s. 26.

Qualifications of members

192.—(1) A person is qualified to be elected as a member of a board if he is,

(*a*) a Canadian citizen;

(*b*) of the full age of eighteen years;

(*c*) a resident within the area of jurisdiction of the board; and

(*d*) in the case of,

(i) a public school board, a public school elector,

(ii) a Roman Catholic separate school board, a separate school elector,

(iii) a member of a board of education to be elected by public school electors, a public school elector, and

(iv) a member of a board of education to be elected by separate school electors, a separate school elector. R.S.O. 1970, c. 385, s. 13 (1); R.S.O. 1970, c. 425, ss. 5 (1), 39 (1); R.S.O. 1970, c. 430, s. 19; 1971, c. 98, s. 4, Sched., pars. 27, 29, 31; 1972, c. 74, s. 2 (1); 1972, c. 75, s. 2 (1).

Members eligible for re-election

(2) A member of a board is eligible for re-election if otherwise qualified. R.S.O. 1970, c. 425, s. 39 (2).

Disqualification

(3) A person is not qualified to be elected or to act as a member of a board,

(*a*) who is,

(i) a member of any other board, or

(ii) a member of the council or an elected member of a local board as defined in *The Municipal Affairs Act*, of a municipality, including a metropolitan or regional municipality and The District Municipality of Muskoka, all or part of which is included in the area of jurisdiction of the board, R.S.O. 1970, c. 118

and whose term of office has at least two months to run after the last day for filing nominations for a new election unless before the closing of nominations he has filed his resignation with the secretary of the other board or with the clerk of the municipality, as the case may be;

(*b*) who is the clerk or treasurer of a county or municipality, including a metropolitan or regional municipality and The District Municipality of Muskoka, all or part of which is included in the area of jurisdiction of the board;

(*c*) who is a member of the Assembly or of the Senate or House of Commons of Canada; or

(*d*) who is otherwise ineligible or disqualified under this or any other Act. R.S.O. 1970, c. 385, s. 13 (2); R.S.O. 1970, c. 425, ss. 5 (2), 39 (3); 1972, c. 74, s. 2 (2, 3); 1972, c. 75, ss. 2 (2, 3), 12, *amended*.

Qualification to act as member

(4) A person is qualified to act as a member of a board during the term for which he was elected so long as he continues to hold the qualifications required for election as a member of the board and does not become disqualified under subsection 3. R.S.O. 1970, c. 385, s. 13 (3); R.S.O. 1970, c. 425, ss. 5 (3), 39 (4).

Person not to be candidate for more than one seat

(5) No person shall qualify himself as a candidate for more than one seat on a board, and any person who so qualifies himself and is elected to hold one or more seats on the board is not entitled to sit as a member of the board by reason of the election, and his seat or seats are thereby vacated. R.S.O. 1970, c. 425, s. 39 (5).

Exception

(6) Notwithstanding subsection 4, a member of a Roman Catholic separate school board who was elected or appointed prior to the coming into force of this Act shall not be disqualified during the term of office for which he was elected or appointed by reason of not holding the qualifications required under clause *c* or *d* of subsection 1. *New*.

Members to remain in office

193.—(1) The members of a board shall remain in office until their successors are elected and the new board is organized. R.S.O. 1970, c. 385, s. 19 (2), *amended*.

Board not to cease for want of members

(2) A board does not cease to exist by reason only of the lack of members. R.S.O. 1970, c. 385, s. 14.

Resignation of members

(3) A member of a board, with the consent of a majority of the members present at a meeting, entered upon the minutes of it, may resign as a member, but he shall not vote on a motion as to his own resignation and may not resign as a member if his resignation will reduce the number of members of the board to less than a quorum.

Resignation to become candidate for some other office

(4) Notwithstanding subsection 3, where it is necessary for a member of a board to resign to become a candidate for some other office, he may resign by filing his resignation, including a statement that he is resigning for the purpose of becoming a candidate for some other office, with the secretary of the board and the resignation shall become effective on the 31st day of December after it is so filed or the day preceding the day upon which the term of such office commences, whichever is the earlier. R.S.O. 1970, c. 424, s. 50, *amended*.

Vacancies on public and secondary school boards

194.—(1) Subject to section 198, where, in respect of a board, the office of a member elected by public school electors, except a board composed of three members, becomes vacant from any cause before the expiration of the term for which he was elected and,

(*a*) the remaining members elected by public school electors constitute a majority of the members of the board elected by public school electors, a majority of such remaining members shall at the first regular meeting after the vacancy occurs, appoint a qualified person to fill the vacancy; or

(*b*) there are no remaining members elected by public school electors or the remaining members elected by public school electors do not constitute a majority of the members elected by public school electors, a new election shall be held to fill the vacancy or vacancies,

and every member so appointed or elected shall hold office for the remainder of the term of his predecessor. R.S.O. 1970, c. 385, s. 22 (1); R.S.O. 1970, c. 425, s. 42 (1); 1972, c. 74, s. 8, *amended*.

Vacancy in office of member elected by separate school electors

(2) Subject to section 198, where, in respect of a board of education, the office of a member elected by separate school electors becomes vacant from any cause before the expiration of the term for which he was elected, and,

(*a*) the remaining members elected by separate school electors constitute a majority of the members elected by separate school electors, a majority of such remaining members shall at the first regular meeting after the vacancy occurs, appoint a qualified person to fill the vacancy; or

(*b*) there are no remaining members elected by separate school electors or the remaining members elected by separate school electors are not a majority of the members elected by separate school electors, the vacancy shall be filled by appointment by the board of the separate school zone that had the highest average daily enrolment for the preceding year of pupils

below the third year of the Intermediate Division who resided in the school division, as certified by the appropriate supervisory officer,

and the person so appointed shall hold office for the remainder of the term of his predecessor. R.S.O. 1970, c. 425, s. 42 (2), *amended*.

All offices vacant

(3) Subject to section 198 and notwithstanding subsection 2, where the offices of all members of a board of education become vacant from any cause, a new election shall be held to fill all such vacancies, and the members so elected shall hold office for the remainder of the term of their predecessors. R.S.O. 1970, c. 425, s. 42 (3).

Where election held to fill a vacancy

1972, c. 95

(4) Notwithstanding subsections 1 to 3, where the elections of a board are held under *The Municipal Elections Act, 1972*, a board may require that an election be held to fill a vacancy on the board and, where an election is so held, the provisions of that Act that pertain to an election to fill a vacancy apply. 1972, c. 74, s. 8; 1972, c. 75, s. 14; 1972, c. 76, s. 15.

Vacancies on board of district school area

195.—(1) Where a vacancy occurs from any cause in the office of a member of a district school area board composed of only three members, the remaining members shall forthwith hold a new election to fill the vacancy in the manner provided for holding the election of the board, and the person elected shall hold office for the remainder of the term of his predecessor.

Where one trustee or no trustee

(2) If at any time there are no remaining members, or only one remaining member, of the board of a district school area, any two electors of the district school area, or the appropriate supervisory officer, by giving six days notice posted up in at least three public places in the district school area, may call a meeting of the electors who shall elect three or two members, as the case may be, in the manner provided in subsection 1. R.S.O. 1970, c. 385, s. 33 (8, 9), *amended*.

Vacancy on separate school board other than rural

196. Subject to section 198, where the office of a trustee of a separate school board, other than a rural separate school board, becomes vacant from any cause before the expiration of the term for which he was elected and,

(*a*) the remaining members constitute a majority of the membership of the board, a majority of the remaining members shall, at the first regular meeting after the vacancy occurs, appoint a qualified person to fill the vacancy; or

(*b*) there are no remaining members or the remaining members do not constitute a majority of the membership of the board, a new election shall be held to fill the vacancy or vacancies,

and every member so appointed or elected shall hold office for the remainder of the term of his predecessor. R.S.O. 1970, c. 430, ss. 52 (3, 4), 91 (5), *amended*.

Vacancy on rural separate school board

197.—(1) Where a vacancy occurs from any cause in the office of a trustee,

(*a*) of a rural separate school before the trustees become a body corporate; or

(*b*) of a rural separate school board,

the remaining trustees shall forthwith take steps to hold a new election to fill the vacancy, and the person thereupon elected shall hold his seat for the remainder of the term of his predecessor.

Proceedings at new election

(2) The new election shall be conducted in the same manner and is subject to the same provisions as for an election of the whole board. R.S.O. 1970, c. 430, s. 52 (1, 2), *amended*.

Vacancy on board

198. Where a vacancy occurs on a board,

(*a*) within one month before the next ensuing election, it shall not be filled; or

(*b*) after the election, but before the new board is organized, it shall be filled immediately after the new board is organized in the same manner as for a vacancy that occurs after the board is organized. R.S.O. 1970, c. 430, ss. 52 (5) (*a*, *b*), 91 (5); 1972, c. 74, s. 8, *part*, *amended*.

Election to fill vacancy

199. Where an election is required to fill a vacancy on a board, except a board composed of only three members, the nomination shall be held on the third Monday following the day on which the office becomes vacant and the polling shall be held on the second Monday following the day of nomination, and the nomination and polling shall be held in the same manner and at the same times as for the office that became vacant. R.S.O. 1970, c. 425, s. 42 (4), *amended*.

Appointment of trustees on failure of qualified person

200. Where the appropriate supervisory officer reports that no persons duly qualified are available or that the electors have failed to elect members of a district school area board,

the Minister may appoint as members of the board such persons as he may consider proper, and the persons so appointed have, during the term of such appointment, all the authority of a board as though they were eligible and duly elected according to this Act. R.S.O. 1970, c. 385, s. 22 (4), *amended*.

When tie vote for vacancy on board

201. When, at a regular meeting of a board or at a special meeting called to fill a vacancy or vacancies on a district school area board, two or more candidates for office receive an equal number of votes, the chairman of the meeting shall provide for the drawing of lots to determine which of the candidates is elected. R.S.O. 1970, c. 385, s. 33 (10), *amended*.

Seat vacated by conviction

202.—(1) If a member of a board is convicted of an indictable offence, or becomes mentally ill, or absents himself without being authorized by resolution entered in the minutes, from three consecutive regular meetings of the board, or ceases to hold the qualifications required to act as a member of the board or becomes disqualified under subsection 3 of section 192, he thereby vacates his seat, and the provisions of this Act with respect to the filling of vacancies apply.

Proviso

(2) Notwithstanding subsection 1, where a member of a board is convicted of an indictable offence, the vacancy shall not be filled until the time for taking any appeal that may be taken from the conviction has elapsed, or until the final determination of any appeal so taken, and in the event of the quashing of the conviction the seat shall be deemed not to have been vacated. R.S.O. 1970, c. 424, s. 57, *amended*.

PART VIII

FINANCE

Interpretation

203.—(1) In this section, "board" means a divisional board and a county or district combined separate school board. *New*.

Appointment and dismissal of auditor

(2) Every board shall appoint an auditor who shall be a person licensed by the Ministry of Treasury, Economics and Intergovernmental Affairs as a municipal auditor and who shall hold office during good behaviour and be removable for cause upon the vote of two-thirds of the members of the board.

Disqualification of auditor

(3) No person shall be appointed as an auditor of a board who is or during the preceding year was a member of the board or who has or during the preceding year had any

direct or indirect interest in any contract or any employment with the board other than for services within his professional capacity, and every auditor, upon appointment, shall make and subscribe a declaration to that effect.

Duties of auditor

(4) An auditor of a board shall perform such duties as are prescribed by the Minister and by the Minister of Treasury, Economics and Intergovernmental Affairs and also such duties as may be required by the board that do not conflict with the duties prescribed by the Minister and by the Minister of Treasury, Economics and Intergovernmental Affairs.

Rights of auditor

(5) An auditor of a board has the right of access at all reasonable hours to all books, records, documents, accounts and vouchers of the board and is entitled to require from the members and officers of the board such information and explanation as in his opinion may be necessary to enable him to carry out his duties.

Auditor may take evidence

(6) An auditor of a board may require any person to give evidence on oath touching on any such matters, and for such purpose has the powers of a commission under Part II of *The Public Inquiries Act, 1971*, which Part applies to such inquiry as if it were an inquiry under that Act.

1971, c. 49

Auditor may attend meetings

(7) An auditor of a board is entitled to attend any meeting of the board or of a committee thereof and to receive all notices relating to any such meeting that any member is entitled to receive and to be heard at any such meeting that he attends on any part of the business of the meeting that concerns him as auditor.

Publication of financial statements

(8) The treasurer of every board in every year shall, within one month after receiving the auditor's report on the financial statements of the board, cause to be published or to be mailed or delivered to each ratepayer a copy of the financial statements of the board for the preceding year in such form as the Minister may prescribe, together with a copy of the report of the auditor.

Idem

(9) Where in any year a tax notice is mailed to each ratepayer before the 30th day of June, the treasurer may, in lieu of publishing, mailing or delivering a copy or summary and the report under subsection 8 cause to be included with such notice the copy or summary and the report.

Filing of financial statements

(10) The treasurer of every board in every year shall prepare the financial statements of the board and, upon receiving the auditor's report thereon, shall forthwith submit two copies

of the financial statements together with a copy of the auditor's report to the Ministry. R.S.O. 1970, c. 425, s. 36; R.S.O. 1970, c. 430, ss. 88, 89, *amended*.

Debentures

204.—(1) Subject to the approval of the Ontario Municipal Board, the sums required by a divisional board for permanent improvements may be raised by the issue of debentures by the divisional board in the manner provided for the issue of municipal debentures in *The Municipal Act*, and for the purposes of this section the duties imposed and powers conferred under *The Municipal Act* regarding the issuing of debentures and the use of moneys received from the sale or hypothecation of debentures, upon the Corporation, the head of council and the treasurer respectively are imposed and conferred upon the divisional board, the chairman of the divisional board and the treasurer of the divisional board respectively. R.S.O. 1970, c. 425, s. 35 (1); 1971, c. 68, s. 5 (1).

R.S.O. 1970, c. 284

Temporary advances pending sale of debentures

(2) The power conferred on a divisional board to issue debentures includes, pending the sale of debentures, the power to agree with a chartered bank or a person for temporary advances from time to time to meet expenditures incurred up to the total of the amount of the debentures authorized by the Ontario Municipal Board and any further amount that has been authorized by the Ontario Municipal Board. 1971, c. 68, s. 5 (2).

Notification of debt charges

(3) The clerk-treasurer or treasurer of each county and municipality in which a divisional board has jurisdiction shall notify the treasurer of the divisional board before the 1st day of January in each year of the amount of the principal and interest due and payable in that year in respect of debentures issued for school purposes by such county or municipality and the dates on which payments are due.

Payment of debt charges for debentures not issued by the board

(4) The treasurer of the divisional board shall pay to every county and municipality on or before the due date of payment the amount of the principal and interest as notified under subsection 3. R.S.O. 1970, c. 425, s. 35 (2, 3).

Withholding from debenture levy

(5) The council of each municipality, except a municipality in a school division, shall withhold from the amount levied and collected for a board sufficient funds to meet the annual debt charges payable in the current year by the municipality in respect of debentures issued for the purposes of the board. R.S.O. 1970, c. 424, s. 79 (1); 1971, c. 90, s. 12.

Deficiency payable by board

(6) Where the debt charges payable by a municipality referred to in subsection 5 on behalf of a board are more than the amount levied by the municipality for the cost of

operation of the board, the board shall make a payment equal to the deficiency to the municipality on or before the date or dates on which the debt charges are payable. R.S.O. 1970, c. 424, s. 79 (2).

Estimates

205.—(1) Every divisional board in each year shall prepare and adopt estimates of all sums required during the year for public school purposes and for secondary school purposes respectively, and such estimates,

(*a*) shall set forth the estimated revenues and expenditures of the board including debt charges payable by the divisional board or on its behalf by the council of a municipality or a county;

(*b*) shall make due allowance for a surplus of any previous year that will be available during the current year;

(*c*) shall provide for any deficit of any previous year;

(*d*) may provide for expenditures for permanent improvements and for an allocation to a reserve fund, provided that the total of expenditures for permanent improvements referred to in subparagraphs i, ii, iii and vii of paragraph 33 of subsection 1 of section 1 and any sum allocated to a reserve fund,

(i) for secondary school purposes, shall not exceed an amount calculated at one mill in the dollar upon the total of the equalized assessments of the municipalities and localities in the school division, and

(ii) for public school purposes, shall not exceed an amount calculated at one mill in the dollar upon the total of the equalized assessments of the property rateable for public school purposes in the municipalities and localities in the school division; and

(*e*) may provide for a reserve for working funds of a sum not in excess of 5 per cent of the expenditures of the board for the preceding year, but, where the sum accumulated in the reserve is equal to or more than 20 per cent of such expenditures, no further sum shall be provided,

and shall submit to the council of each municipality all or part of which is in the school division on or before the 1st

day of March in each year a statement indicating the amount of the estimates for public school purposes and for secondary school purposes to be raised by each council and a requisition of the amount of the estimates for public school purposes and for secondary school purposes required to be raised by the council in respect of the municipality or part thereof. R.S.O. 1970, c. 424, ss. 75 (2), 76, 77; R.S.O. 1970, c. 425, s. 31 (1); 1972, c. 75, s. 7 (1).

Interpretation

(2) In subsection 1, "equalized assessment" for a municipality or a locality means the assessment upon which taxes are levied in the municipality or locality, as the case may be, in the year for which the estimates are adopted as adjusted by the latest assessment equalization factor applicable thereto that is provided by the Minister. 1972, c. 75, s. 7 (2).

Cost to be included in estimates

(3) The cost of operation of schools for trainable retarded children shall be included in the estimates of the divisional board for secondary school purposes under subsection 1. R.S.O. 1970, c. 425, s. 76, *amended*.

Reserve fund limitation exception

(4) The limitation on the sum that a board may allocate to a reserve fund under clause *d* of subsection 1 does not apply to revenue received by a board in any year from the sale or disposal of, or insurance proceeds in respect of, permanent improvements.

Idem

(5) The limitation on the sum that a board may include in its estimates for permanent improvements under clause *d* of subsection 1 does not apply to revenue received by a board in any year from the sale or disposal of, or insurance proceeds in respect of, permanent improvements or to an expenditure from a reserve fund for the purpose for which such fund was established or to the portion of an expenditure for a permanent improvement receivable by way of a grant under section 9 of *The Community Centres Act* or receivable from a municipality pursuant to an agreement under section 157.

R.S.O. 1970, c. 73

Expenditure of reserve fund moneys

(6) The moneys raised for, or held in, a reserve fund by a board shall not be expended, pledged or applied to any purpose other than that for which the fund was established without the approval of the Minister and subsection 4 of section 308 of *The Municipal Act* does not apply to such moneys. 1972, c. 136, s. 3.

R.S.O. 1970, c. 284

Where estimates submitted after March 1st

(7) Where, in any year, a divisional board is unable to submit the statement and requisition required under subsection 1 to the council of each municipality in the school division on or before the 1st day of March, the later submission thereof does not relieve the council of its duty under subsection 1 of section 208 to levy and collect the amount required by the divisional board.

(8) Where, in any year, the council of a municipality is required, by reason of receiving the requisition of a divisional board under subsection 1 after the 1st day of March, to levy the amount required by the divisional board by a separate levy from the amount levied for municipal purposes, the divisional board, on the request of the treasurer of the municipality, shall pay to the treasurer the cost of levying the amount required by the divisional board.

Where cost of separate levy payable by divisional board

(9) Subsection 5 of section 307 of *The Municipal Act* does not apply to divisional boards. R.S.O. 1970, c. 425, s. 31 (2-4).

Requirement re estimates R.S.O. 1970, c. 284

(10) Except where inconsistent with the provisions of *The Municipality of Metropolitan Toronto Act*, this section applies, *mutatis mutandis*, to a board of education for an area municipality under such Act. *New*.

Application to board of education R.S.O. 1970, c. 295

(11) The provisions of this section that apply in respect of the public school purposes of a divisional board apply to a public school board. 1973, c. 37, s. 7, *amended*.

Application to public school board

(12) The provisions of this section that apply in respect of the secondary school purposes of a divisional board apply to a secondary school board. 1972, c. 136, s. 1.

Application to secondary school board

206.—(1) In this section, "equalized assessment" for a municipality or a locality means the assessment upon which taxes are levied in the municipality or locality, as the case may be, in the year for which the apportionment is made as adjusted by the latest assessment equalization factor applicable thereto that is provided by the Minister. 1972, c. 75, s. 8 (1).

Interpretation

(2) Where, in any year, territory without municipal organization is included in a school division and property therein is assessed for the first time for the purpose of levying rates and collecting taxes for school purposes, such assessment shall, for the purposes of apportionment of costs for that year under this section, be the assessment on which taxes are levied in that year and a request for arbitration under subsection 10 may be made within thirty days after receiving the apportionment from the divisional board. R.S.O. 1970, c. 425, s. 32 (2).

Apportionment where unorganized territory becomes part of school division

(3) The sum required by a divisional board for secondary school purposes shall be apportioned among the municipalities and localities in the school division in the proportion that the equalized assessment of the property rateable for secondary school purposes in each such municipality or locality bears to the equalized assessment of all the property

Apportionment, secondary school purposes

rateable for secondary school purposes in the school division. R.S.O. 1970, c. 425, s. 32 (3); 1972, c. 75, s. 8 (2).

Apportionment, public school purposes

(4) The sum required by a divisional board for public school purposes shall be apportioned among the municipalities and localities in the school division in the proportion that the equalized assessment of the property rateable for public school purposes in each such municipality or locality bears to the equalized assessment of all the property rateable for public school purposes in the school division. R.S.O. 1970, c. 425, s. 32 (4); 1972, c. 75, s. 8 (3).

Request for arbitration

(5) Where, in respect of any year, the council of a municipality is of the opinion that the apportionment made under subsection 3 or 4 imposes an undue burden on the ratepayers of the municipality or of part thereof, the council may apply to the divisional board, within thirty days after receiving the apportionment from the divisional board, for an arbitration to determine the proportion of the sums required for public school purposes and for secondary school purposes that each municipality or part thereof shall bear in such year. R.S.O. 1970, c. 425, s. 32 (5).

Arbitrators

(6) Upon receipt of the application, the divisional board shall direct its chief executive officer to call a meeting of the treasurer of the county or the regional municipality or, in the case of The Muskoka Board of Education, the treasurer of The District Municipality of Muskoka and the treasurers of the municipalities within the school division, and these treasurers shall be arbitrators to determine the proportion of the amounts to be raised by each municipality. R.S.O. 1970, c. 425, s. 32 (7); 1972, c. 75, s. 8 (4).

Notification of decision

(7) The arbitrators shall make their decision in writing and file a copy thereof with the chief executive officer of the divisional board who shall forthwith send a copy of the decision to the clerk of each municipality by registered mail.

Reference to O.M.B.

(8) If, within thirty days of the mailing of copies of the decision by the chief executive officer, the council of one of the municipalities files with the chief executive officer a written objection to the decision of the arbitrators, the divisional board shall refer the matter to the Ontario Municipal Board whose decision is final.

Effect of decision

(9) The decision of the arbitrators, or, if the matter is referred to the Ontario Municipal Board, the decision of the Ontario Municipal Board, is effective for the year in respect of which the decision is made.

(10) In territory without municipal organization that is deemed to be a district municipality in a school division, five ratepayers resident in such district municipality have the same powers as the council of a municipality under subsections 5 and 8 and may appoint one ratepayer to act as treasurer for the purposes of this section and, where any disagreement arises in respect of such appointed treasurer, the chief executive officer of the divisional board shall designate the person so to act. R.S.O. 1970, c. 425, s. 32 (8-11). Territory without municipal organization

(11) Where in respect of any year a municipality in a school division has, under section 208, levied the amounts that were requisitioned by the divisional board and such amounts are altered by a decision of the arbitrators or by a decision of the Ontario Municipal Board, an overpayment or an underpayment in respect of the municipality or part, resulting from such alteration, shall be adjusted in the levy for the year following the year in which a final decision is received by the board except that, where such decision is received by the board in January, the adjustment shall be made in the levy for the year in which the decision is received. R.S.O. 1970, c. 425, s. 32 (12); 1973, c. 91, s. 2. Adjustment as result of arbitration

207.—(1) The Lieutenant Governor in Council may make regulations providing for the apportionment of the sums required by a divisional board for secondary school purposes and for public school purposes for any year among the municipalities or parts thereof and localities in the school division. R.S.O. 1970, c. 425, s. 33 (2); 1972, c. 75, s. 9 (2). Regulations for apportionment in year 1970 and any subsequent year

(2) Notwithstanding subsections 3 and 4 of section 206, the sums required by a divisional board for secondary school purposes and for public school purposes for any year to which a regulation made under this section is applicable shall be apportioned among the municipalities or parts thereof and localities in the school division in accordance with such regulation. R.S.O. 1970, c. 425, s. 33 (3); 1972, c. 75, s. 9 (3). Apportionment

(3) Where, in making the apportionment in accordance with a regulation made under this section, estimated data are used, an overpayment or an underpayment by a municipality or part thereof or a locality, determined on the basis of actual data, shall be adjusted in the levy for the following year. R.S.O. 1970, c. 425, s. 33 (4); 1972, c. 75, s. 9 (4). Where estimated data used

(4) Where the regulations provide for a grant to a divisional board on behalf of a part of a territorial district that in the year 1968 was not included in a secondary school district, such grant shall be applied to reduce the sum required to be raised under this section in such part of the territorial district. Application of grants

Request for arbitration

(5) Where the council of a municipality is of the opinion that the apportionment made under this section imposes an undue burden on the ratepayers of the municipality or part thereof, the council may apply to the divisional board, within thirty days after receiving such apportionment from the divisional board, for an arbitration to determine the proportion of the sums required for public school purposes and for secondary school purposes that each municipality shall raise in respect of the year for which the request for an arbitration is made, and the provisions of subsections 5 to 11 of section 206 apply *mutatis mutandis*. R.S.O. 1970, c. 425, s. 33 (5, 6).

Rates

208.—(1) The council of each municipality in a school division in each year shall levy and collect,

(*a*) upon all the property rateable for public school purposes in the municipality the amount that it is required by the divisional board to raise for public school purposes; and

(*b*) upon all the property rateable for secondary school purposes in the municipality the amount that it is required by the divisional board to raise for secondary school purposes.

Payment to boards

(2) Subject to subsection 3, the council of each municipality in a school division in each year shall pay to the divisional board the amounts required to be raised by the municipality for public school purposes and for secondary school purposes, in the following instalments:

1. 25 per cent of such amounts on the 31st day of March;

2. 25 per cent of such amounts on the 30th day of June;

3. 25 per cent of such amounts on the 30th day of September; and

4. 25 per cent of such amounts on the 15th day of December,

and in case of non-payment of such instalments or any portion thereof on such dates, the municipality so in default shall pay to the board interest thereon from the day of default to the date that the payment is made at the minimum lending rate of the majority of chartered banks on the day of default and where, with the consent of the board, such instalments or any portion thereof are paid in advance of such dates, the board shall allow to the municipality a discount thereon

from the date of payment to the date upon which the payment is due at the minimum lending rate of the majority of chartered banks on the date of payment.

Agreement

(3) A divisional board may, by agreement with a majority of the municipalities in the school division where such municipalities represent at least two-thirds of the equalized assessment in the school division as determined under subsection 1 of section 206, provide for any number of instalments and the amounts and due dates thereof other than those provided in subsection 2, which shall be applicable to all municipalities in the school division and otherwise subsection 2 applies *mutatis mutandis*.

Termination of agreement

(4) Where an agreement under subsection 3 does not provide for its termination, it shall continue in force from year to year until it is terminated on the 31st day of December in any year by notice given before the 31st day of October in such year,

(*a*) by the chief executive officer of the divisional board as authorized by a resolution of the divisional board; or

(*b*) by the clerks of the majority of the municipalities which represent at least two-thirds of the equalized assessment in the school division as determined under subsection 1 of section 206,

and where no agreement is in effect under subsection 3, the payments shall be made as provided in subsection 2.

Where instalment due before requisition received

(5) Where, in any year, for any reason, the amounts required to be raised under subsection 1 have not been requisitioned before the date upon which an instalment is due, the amount of the instalment shall be based upon the requisition of the previous year and paid on the due date, and in the case of late payment or prepayment of all or part of such instalment the interest or discount under subsection 2 shall apply thereto, and the necessary adjustment shall be made in the instalment due next following the date upon which the requisition of the divisional board is received. R.S.O. 1970, c. 425, s. 34 (1-5).

Application to separate schools

(6) Where a combined separate school board has requested the municipalities that are in whole or in part within the combined separate school zone to levy and collect the rates or taxes imposed by the board, the provisions of subsections 1 to 5 apply *mutatis mutandis* to such board and such municipalities except that reference to equalized assessment in the school division shall be deemed to refer to equalized

assessment rateable for separate school purposes in the combined zone. R.S.O. 1970, c. 430, s. 87 (2-5), *amended*.

Application to public school board

(7) The provisions of this section that apply in respect of the public school purposes of a divisional board apply in respect of a public school board. 1971, c. 69, s. 6, *amended*.

Tax notices

R.S.O. 1970, c. 284

209.—(1) Where taxes are collected by a municipal council for the purposes of a board, the notice of taxes given by the collector under section 521 of *The Municipal Act* shall be given separately in relation to taxes imposed for public, secondary or separate school purposes or in such manner as will clearly indicate the taxes imposed for such school purposes. R.S.O. 1970, c. 425, s. 34 (6).

Municipality to account for moneys

(2) The council of a municipality shall annually account for all moneys collected for school purposes, and any sum collected in excess of the amount required by a board to be raised by the municipality for such purposes shall, except where otherwise provided in the Act under which the sum is collected, be retained by the municipality and applied to reduce the amount that the municipality is required by such board to raise for such purposes in the year next following. 1971, c. 68, s. 2.

Correction of errors in collection of rates in previous years

(3) The council of a municipality shall correct any errors or omissions that may have been made within the three years next preceding such correction in the collection of any school rate duly imposed or intended so to be, to the end that no property shall escape from, or be compelled to pay more than, its proper proportion of the rate. R.S.O. 1970, c. 385, s. 48.

Current borrowing

210.—(1) Notwithstanding the provisions of any general or special Act, a board may by resolution authorize the treasurer and the chairman or vice-chairman to borrow from time to time by way of a promissory note, such sums as the board considers necessary to meet the current expenditures of the board until the current revenue has been received, provided that the interest and any other charges connected therewith do not exceed the interest that would be payable at the minimum lending rate of the majority of chartered banks on the date of borrowing. 1973, c. 92, s. 17.

Debt charges

(2) A board may also borrow, in the manner provided in subsection 1, such sums as the board considers necessary to meet debt charges payable in any year until the current revenue has been received.

(3) The amounts that may be borrowed at any one time for the purposes mentioned in subsections 1 and 2, together with the total of any similar borrowings that have not been repaid, shall not exceed the unreceived or uncollected balance of the estimated revenues of the board, as set forth in the estimates adopted for the year. Limitation

(4) Until such estimates are adopted, the limitations upon borrowing prescribed in this section shall temporarily be calculated upon the estimated revenues of the board, as set forth in the estimates adopted for the next preceding year, less the amount of revenues of the current year already collected. When limitation calculated on estimated revenue

(5) At the time, in any year, that any amount is borrowed under this section, the treasurer shall furnish to the lender a copy of the resolution authorizing the borrowing, unless he has previously done so, and as frequently as required by the lender, a statement showing the amount of the estimated revenues of the current year not yet collected or, where the estimates for the current year have not been adopted, a statement showing the amount of the estimated revenues of the board as set forth in the estimates adopted for the next preceding year and the amount of revenues of the current year already collected, and also showing the total amounts borrowed under this section in the current year that have not been repaid. Copy of resolution authorizing borrowing

(6) For the purposes of this section, estimated revenues do not include revenues derivable or derived from the sale of assets, borrowings or issues of debentures or from a surplus including arrears of taxes and proceeds from the sale of assets. R.S.O. 1970, c. 424, s. 71 (2-6). Estimated revenues

211. The fees payable by a board for the education of pupils shall be paid, when requested by the treasurer of the board that provides the education, on an estimated basis at least quarterly during the year in which the education is provided, with such adjustment as may be required when the actual financial data and enrolment for the year have been finally determined, and the estimate shall be not less than the rate per pupil chargeable for a similar period in the preceding year times 90 per cent of the number of such pupils enrolled at the beginning of the current school year. R.S.O. 1970, c. 424, s. 72 (5). When fees payable by boards

Reduction of requisition or rates

212.—(1) Where, in any year, provision is made by regulation for a grant to a board for the purpose of limiting in such year the amount of the requisition for public or secondary school purposes or the increase in the mill rate for separate school purposes in respect of,

(*a*) a municipality or part thereof; or

(*b*) a part of territory without municipal organization that is deemed to be a district municipality,

under the jurisdiction of the board, the board shall, in such year, notwithstanding the provisions of any other Act, apply the grant to reduce the amount of the requisition that otherwise would be required for public or secondary school purposes or to reduce the mill rate that otherwise would be required to be levied for separate school purposes, as the case may be, in respect of the municipality or part thereof, or the district municipality. R.S.O. 1970, c. 424, s. 73 (1), *amended*.

Adjustment of rates where under- or over-levy

(2) Where a board that has jurisdiction in more than one municipality or in one municipality and territory without municipal organization ascertains that,

(*a*) the sum that the board requisitioned for public or secondary school purposes from, or levied for separate school purposes in, a municipality or a part thereof or part of territory without municipal organization that is deemed to be a district municipality under Part III for public and secondary school purposes or under Part IV for separate school purposes;

differs from

(*b*) the sum that the board ought to have requisitioned for public or secondary school purposes from, or levied for separate school purposes in, such municipality or part thereof or part of territory without municipal organization in such year in accordance with the provisions of this Act after the application of the grant referred to in subsection 1 that is receivable by the board in such year in respect of such municipality or part thereof or part of territory without municipal organization,

the difference shall be added to or subtracted from the sum that is estimated to be required for public or secondary school purposes from, or levied for separate school purposes in, such municipality or part thereof or part of territory

without municipal organization in the year in which, or in the year next following the year in which, the existence of the difference is ascertained.

Levy for difference

(3) Notwithstanding subsection 2, a board may, with the approval of the Minister, add to or subtract from the sum that is estimated to be required from or levied in a municipality or part thereof or part of territory without municipal organization in each of two or three years, commencing in the year in which, or in the year next following the year in which, the difference referred to in subsection 2 is ascertained, a portion of such difference, so as to make up the total thereof. 1971, c. 90, s. 11.

Where difference not dealt with under subss. 2, 3

(4) Where a difference referred to in subsection 2 was not dealt with by a board in accordance with subsection 2 or 3 before the 1st day of January, 1972, such difference shall be dealt with by the board as if it had been first ascertained in the year 1972. 1972, c. 77, s. 33.

Interpretation

213. In sections 214, 215 and 216,

(*a*) "commercial assessment" means,

(i) the assessment of real property that is used as the basis for computing business assessment including the assessment for real property that is rented and occupied or used by the Crown in right of Canada or any province or any board, commission, corporation or other agency thereof, or by any municipal corporation or local board thereof, and

(ii) business assessment, and

(iii) the assessment for mineral lands, railway lands, other than railway lands actually in use for residential and farming purposes, and pipe lines, and the assessment of telephone and telegraph companies,

according to the last revised assessment roll;

(*b*) "residential and farm assessment" means the assessment for real property except the assessment for real property mentioned in subclauses i and iii of clause *a*, according to the last revised assessment roll. R.S.O. 1970, c. 424, s. 74.

Data furnished by the municipality

214. The clerk of a municipality shall in each year furnish to each board having jurisdiction in the municipality, or any parts thereof, information respecting the total of the commercial assessments and of the residential and farm assessments on which rates for the support of the board will be

levied in that year and the amount due and payable in the current year for debt charges on debentures issued by the municipality in respect of the board. R.S.O. 1970, c. 424, s. 75 (1).

Determination of rates

215.—(1) Rates to be levied for each board in each municipality or part thereof or part of territory without municipal organization shall be determined in the following manner:

1. Add 90 per cent of the residential and farm assessment in the municipality or part or part of territory without municipal organization to the commercial assessment thereof.

2. Multiply the amount estimated by the board to be raised by levy on the assessment according to the last revised assessment roll for the municipality or part or part of territory without municipal organization by 1,000 and divide the product by the total determined under paragraph 1.

3. The rate to be levied on commercial assessment shall be the rate determined under paragraph 2.

4. The rate to be levied on residential and farm assessment shall be 90 per cent of the rate determined under paragraph 2.

Who to determine rates

(2) Subject to subsection 3, the rates shall be determined by the council of each municipality for each board that has jurisdiction in the municipality.

Idem

(3) A separate school board shall determine the rates to be levied for separate school purposes, and a public or secondary school board shall determine the public or secondary school rates to be levied in respect of territory without municipal organization that is within its area of jurisdiction. R.S.O. 1970, c. 424, s. 78, *amended*.

Assessments for school purposes

R.S.O. 1970, c. 32

216. The clerk of each municipality and each secretary of a board in territory without municipal organization, in addition to the particulars required under subsection 1 of section 17 of *The Assessment Act*, shall prepare the following particulars:

1. the commercial assessment for public school purposes;

2. the residential and farm assessment for public school purposes;

3. the commercial assessment for separate school purposes;

4. the residential and farm assessment for separate school purposes;

5. where two or more school jurisdictions, or parts thereof, are situated in the municipality, the school jurisdiction and the commercial assessment and residential and farm assessment in each such jurisdiction. R.S.O. 1970, c. 424, s. 80.

Levying of school rates

217. The council of every local municipality, every public school board that has jurisdiction only in territory without municipal organization, every divisional board that has jurisdiction in any territory without municipal organization that is deemed a district municipality in a school division, and every separate school board in each year shall levy or cause to be levied on the whole of the assessment for real property and business assessment for public, secondary and separate school purposes, as the case may be, according to the last revised assessment roll, the rates determined for each public, secondary and separate school board having jurisdiction in the municipality, or a part thereof, or in territory without municipal organization, as the case may be. R.S.O. 1970, c. 424, s. 81.

This Part to prevail where conflict

218. In the event of a conflict between any provision in sections 213 to 217 and any provision in any other general or special Act, the provision in sections 213 to 217 prevails. R.S.O. 1970, c. 424, s. 82.

Rates for public library in unorganized territory in school division

219. Where a public library has been established for a school section in territory without municipal organization that is deemed a district municipality within a school division under subsection 3 of section 50, the divisional board of the school division shall be deemed to be a municipal council for such district municipality under section 23 of *The Public Libraries Act*, and the amount of the estimates of the board of the public library appropriated for such board by the divisional board of the school division shall be raised by a levy imposed by the divisional board on all the rateable property in the district municipality. R.S.O. 1970, c. 425, s. 27 (6).

R.S.O. 1970, c. 381

Interpretation

220.—(1) In this section and in section 221,

(*a*) "trailer" means, any vehicle, whether self-propelled or so constructed that it is suitable for being attached to a motor vehicle for the purpose of being drawn or

propelled by the motor vehicle, that is capable of being used for the living, sleeping or eating accommodation of persons, notwithstanding that such vehicle is jacked-up or that its running gear is removed;

(*b*) "trailer camp" or "trailer park" means land in or upon which any trailer is placed, located, kept or maintained, but not including any vehicle unless it is used for the living, sleeping or eating accommodation of persons therein. *New*.

Share of licence fees for trailers to be paid to boards

(2) Except as provided in subsection 3, where a trailer is located in a trailer camp or elsewhere in a municipality and licence fees are collected for the trailer or for the land occupied by the trailer in a trailer camp in any year, the council of the municipality shall pay,

(*a*) to the public school board having jurisdiction in the school section in which the trailer is located a share of the licence fees collected in the same proportion as the rate levied in that part of the municipality for public school purposes bears to the total of the rates levied in that part of the municipality for public and secondary school purposes and municipal purposes; and

(*b*) to the secondary school board having jurisdiction in the secondary school district in which the trailer is located a share of the licence fees collected in the same proportion as the rate levied in that part of the municipality for secondary school purposes bears to the total of the rates levied in that part of the municipality for public and secondary school purposes and municipal purposes.

Idem

(3) Where the occupant of a trailer has given to the clerk of the municipality in which the trailer is located a notice in writing stating that he is a Roman Catholic and desires to be a supporter of a separate school that is situated within three miles of the trailer and within the municipality or a municipality contiguous thereto, the council of the municipality shall pay,

(*a*) to the board of the separate school a share of the licence fees collected with respect to such trailer in the same proportion as the rate levied for separate school purposes in that part of the municipality that is within three miles of the separate school bears to the total of the rates levied in such part of the municipality for separate and secondary school purposes and municipal purposes; and

(*b*) to the secondary school board having jurisdiction in the secondary school district in which the trailer is located a share of the licence fees collected with respect to such trailer in the same proportion as the rate levied for secondary school purposes in such district bears to the total of the rates levied for separate and secondary school purposes and municipal purposes in that part of the district within three miles of the separate school. R.S.O. 1970, c. 424, s. 100 (1, 2), *amended*.

Licence fees not part of annual rates

(4) The share of the licence fees payable to a board by the council of a municipality under this section shall be in addition to any other amount that is payable to the board by the municipality, and shall be paid to the board on or before the 15th day of December in the year for which the licence fees are collected. 1971, c. 90, s. 13.

Application to municipally operated camps

(5) This section does not apply to trailer camps and trailer parks operated by a municipality. R.S.O. 1970, c. 424, s. 100 (3).

Levy on trailer in public school section in unorganized territory

221.—(1) Except as provided in subsection 2, the owner, lessee or person having possession of a trailer that is located in territory without municipal organization in a public school section shall pay to the public school board, on or before the first day of each month, a fee of $5 in respect of such trailer for each month or part thereof, except July and August, that the trailer is so located.

Levy on trailer re separate school in unorganized territory

(2) Where the occupant of a trailer that is located in territory without municipal organization is a Roman Catholic and signifies in writing to the separate school board and if the trailer is located in a public school section to the chief executive officer of the public school board that he is a Roman Catholic and wishes to be a supporter of the separate school that is within three miles of the trailer, the owner or lessee of the trailer shall pay to the separate school board, on or before the first day of each month, a fee of $5 in respect of such trailer for each month or part thereof, except July and August, that the trailer is so located.

Levy on trailer in secondary school district in unorganized territory

(3) The owner, lessee or person having possession of a trailer that is located in territory without municipal organization in a secondary school district shall pay to the secondary school board, on or before the first day of each month, a fee of $5 in respect of such trailer for each month or part thereof, except July and August, that the trailer is so located. R.S.O. 1970, c. 424, s. 101 (1-3), *amended*.

Notice

(4) No person is required to pay a fee under this section until he has been notified in writing by the secretary of

the board concerned or the tax collector that he is liable to pay such fee, and upon receipt of such notice the person shall forthwith pay all fees for which he has been made liable under this section before receipt of the notice and shall thereafter pay fees in accordance with subsections 1 to 3.

Content of notice

(5) Every notice under this section shall make reference to this section and shall specify,

(*a*) the amount of fees for which the person is liable on receipt of the notice;

(*b*) the amount of the monthly fee to be paid thereafter;

(*c*) the date by which payment is required to be made;

(*d*) the place at which payment may be made; and

(*e*) the fine provided under this section. R.S.O. 1970, c. 424, s. 101 (4, 5).

No levy where trailer assessed R.S.O. 1970, c. 32

(6) No fees shall be charged in respect of a trailer assessed under *The Assessment Act*. *New*.

Offence

(7) Every owner or lessee or person having possession of a trailer who permits the trailer to be located in any part of territory without municipal organization in which he is liable for any fee under this section without paying the fee as required under this section is guilty of an offence and on summary conviction is liable to a fine of not less than $10 and not more than $50 and each day that this subsection is contravened shall be deemed to constitute a separate offence. R.S.O. 1970, c. 424, s. 101 (6).

Refund of fees where trailer assessed

(8) Where in the year 1973 or 1974 fees were paid pursuant to this section to a public, separate or secondary school board in relation to a trailer that was assessed under *The Assessment Act* and for which property taxes were due in such year to the public, separate or secondary school board, the board that collected the fees shall refund such fees to the person who paid them. *New*.

School rate where no public school in municipality

222.—(1) Where, in a municipality, a person is entered on the collector's roll as a public school supporter and there is no public school board to which public school rates, if levied in any year on the taxable property of such person in the municipality, may be paid, there shall be levied and collected annually on the taxable property of such person in the municipality a rate equal to 50 per cent of the rate to be levied in that year for general municipal purposes in the municipality. R.S.O. 1970, c. 385, s. 49.

(2) The moneys raised under subsection 1 shall be deposited in a reserve account for public school purposes and may be invested in such securities as a trustee may invest in under *The Trustee Act*, and the earnings from such investments shall form part of the reserve account. Reserve account R.S.O. 1970, c. 470

(3) Subject to subsection 4, where, in a municipality referred to in subsection 1, a public school board is organized and makes provision for the education of its resident pupils, the municipal council shall pay over to the board such moneys as are held by the municipality under this section, and such moneys, Use of moneys in account

(*a*) shall be used for such expenditures for permanent improvements for public school purposes as the board considers expedient; and

(*b*) in any one year, may be used to defray not more than one-third of the amount that would otherwise be required to be requisitioned by the board for public school purposes from such municipality.

(4) Where a municipality referred to in subsection 1 becomes part of a school division, the municipal council shall pay over to the divisional board such moneys as are held by the municipality and such moneys shall be used as provided in clause *b* of subsection 3. 1972, c. 74, s. 12. Application in a school division

223.—(1) Moneys that are held by a municipality as of the 31st day of December, 1972 and were derived from the Ontario Municipalities Fund or from any other source for public school purposes, except the collection of rates, shall be applied by the municipality in the year 1973 to reduce the rate that would otherwise be required to be levied for public school purposes in the municipality. Reserve fund for public school purposes, application in 1973

(2) Where an area municipality, as defined in *The Regional Municipality of Niagara Act*, holds moneys referred to in subsection 1, such moneys shall be applied by the area municipality in the year 1973 to reduce the rate that would otherwise be required to be levied for public school purposes in the part of the area municipality that, on the 31st day of December, 1969, was a municipality that held such moneys, and where there is more than one such part in the area municipality, the moneys shall be applied by the area municipality in respect of each such part in the ratio in which the moneys were held by the former municipalities. Area municipalities in Niagara Region R.S.O. 1970, c. 406

(3) Where, on the 31st day of December, 1972, a municipality holds moneys referred to in subsection 1 and a portion of such municipality is, on the 1st day of January, 1973, detached therefrom, such moneys shall be apportioned by the Where part of municipality detached

clerk of such municipality between the detached portion and the remainder of the municipality in the ratio that the assessment of the property rateable for public school purposes on which taxes were levied in 1972 in the detached portion bears to such assessment in the remainder of the municipality and the amount so apportioned to the portion detached and the remainder of the municipality shall be applied to reduce the rates that would otherwise be required to be levied for public school purposes in 1973 in the detached portion and in the remainder, and the amount of money apportioned to the detached portion shall, before the 31st day of January, 1973, be paid over to the municipality of which the detached portion becomes a part. 1972, c. 74, s. 13.

PART IX

TEACHERS

Contracts

Full-time or part-time teacher

224.—(1) A full-time or part-time teacher who is employed by a board and who is not an occasional teacher shall be employed as a permanent or a probationary teacher. *New.*

Memorandum of contract

(2) A memorandum of every contract of employment between a board and a permanent teacher or a probationary teacher shall be made in writing in the form of contract prescribed by the regulations, signed by the parties, sealed with the seal of the board and executed before the teacher enters upon his duties, but if for any reason such memorandum is not so made, or has not been amended to incorporate any change made in the form of contract so prescribed, every contract shall be deemed to include the terms and conditions contained in the form of contract prescribed for a permanent teacher. R.S.O. 1970, c. 424, s. 16 (1); 1971, c. 90, s. 2 (1).

Salary of teacher

225.—(1) Unless otherwise expressly agreed and subject to subsections 2 to 5, a teacher is entitled to be paid his salary in the proportion that the total number of school days for which he performs his duties in the school year bears to the total number of school days in the school year. 1973, c. 92, s. 7, *amended.*

Payment for absence due to illness or dental condition

(2) Subject to subsection 3, a permanent, probationary or temporary teacher is entitled to his salary for a total of twenty school days in any one school year in respect of his absence from duty on account of his sickness certified to by a physician or on account of acute inflammatory condition of his teeth or gums certified to by a licentiate of dental surgery, but a board may in its discretion pay the teacher his salary for more than twenty days absence from duty on account

of such sickness or such tooth or gum condition. R.S.O. 1970, c. 424, s. 16 (4).

Part-time teacher

(3) A part-time teacher is entitled to his salary for 10 per cent of the periods of instruction and supervision specified in the agreement for his employment in any one school year in respect of his absence from duty on account of his sickness certified to by a physician or on account of acute inflammatory condition of his teeth or gums certified to by a licentiate of dental surgery, but a board may in its discretion pay the part-time teacher his salary for more than 10 per cent of the periods of instruction and supervision in respect of his absence from duty on account of such sickness or such tooth or gum condition.

Absence of teacher in quarantine

(4) Every teacher is entitled to his salary notwithstanding his absence from duty in any case where, because of exposure to a communicable disease, he is quarantined or otherwise prevented by the order of the medical health authorities from attending upon his duties. R.S.O. 1970, c. 424, s. 16 (6, 7).

Absence by reason of being a juror or witness

(5) A teacher is entitled to his salary notwithstanding his absence from duty by reason of a summons to serve as a juror, or a subpoena as a witness in any proceeding to which he is not a party or one of the persons charged, provided that the teacher pays to the board any fee, exclusive of travelling allowances and living expenses, that he receives as a juror or as a witness. 1972, c. 77, s. 9.

Award of salary by way of penalty

(6) If it appears to the judge on the trial of an action for the recovery of a teacher's salary that there was not reasonable ground for the board disputing its liability or that the failure of the board to pay was from an improper motive, he may award as a penalty a sum not exceeding three months salary.

Failure of board to pay salary when no written agreement

(7) For the purposes of subsection 6, the failure of a board to pay a teacher's salary may be extended by a judge to include failure to pay a teacher's salary when an agreement for his employment has been made by the board but no written memorandum has been made and executed as required by section 224, if the judge is satisfied upon the evidence that the refusal of the board to pay the salary by reason of the absence of a memorandum in writing is without merit. R.S.O. 1970, c. 424, s. 16 (10, 11).

Probationary teacher

226. A board shall not offer to a teacher, and no teacher shall accept, a contract as a probationary teacher for a period greater than,

(*a*) two years where the teacher has less than three years' experience; and

(*b*) one year where the teacher has three or more years' experience,

as a teacher in an elementary or secondary school in Ontario before the commencement of the contract. R.S.O. 1970, c. 424, s. 1 (2), par. 22, *amended*.

Teachers to be qualified

227.—(1) Except as otherwise provided in this Act, no person shall be employed or act as a teacher in an elementary or secondary school unless he is qualified as prescribed by the regulations. R.S.O. 1970, c. 424, s. 18 (1).

Certificates

(2) Subject to this Act, a certificate of qualification as a teacher may be awarded only to a person of good moral character and physically fit to perform the duties of a teacher, who passes the examinations prescribed by, and otherwise complies with, the regulations. R.S.O. 1970, c. 424, s. 18 (2); 1972, c. 77, s. 10.

Idem

(3) All certificates of qualification are valid for such periods as the regulations prescribe. R.S.O. 1970, c. 424, s. 18 (3).

Termination of contract where welfare of school involved

228. Notwithstanding the other provisions of this Part and notwithstanding anything in the contract between the board and the teacher, where a permanent or probationary teacher is employed by a board and a matter arises that in the opinion of the Minister adversely affects the welfare of the school in which the teacher is employed,

(*a*) the board or the teacher may, with the consent of the Minister, give the other party thirty days written notice of termination, and the contract is terminated at the expiration of thirty days from the date the notice is given; or

(*b*) the board may, with the consent of the Minister, give the teacher written notice of immediate termination together with one-tenth of the teacher's yearly salary in addition to the amount to which he would otherwise be entitled, and the contract thereupon is terminated. R.S.O. 1970, c. 111, s. 10 (2).

Duties

Duties of teacher,

229.—(1) It is the duty of a teacher,

teach

(*a*) to teach diligently and faithfully the classes or subjects assigned to him by the principal;

learning

(*b*) to encourage the pupils in the pursuit of learning;

religion and morals

(*c*) to inculcate by precept and example respect for religion and the principles of Judaeo-Christian morality

and the highest regard for truth, justice, loyalty, love of country, humanity, benevolence, sobriety, industry, frugality, purity, temperance and all other virtues;

(*d*) to assist in developing co-operation and co-ordination of effort among the members of the staff of the school; co-operation

(*e*) to maintain, under the direction of the principal, proper order and discipline in his classroom and while on duty in the school and on the school ground; discipline

(*f*) in instruction and in all communications with the pupils in regard to discipline and the management of the school, language of instruction

(i) to use the English language, except where it is impractical to do so by reason of the pupil not understanding English, and except in respect of instruction in a language other than English when such other language is being taught as one of the subjects in the course of study, or

(ii) to use the French language in schools or classes in which French is the language of instruction except where it is impractical to do so by reason of the pupil not understanding French, and except in respect of instruction in a language other than French when such other language is being taught as one of the subjects in the course of study;

(*g*) to conduct his class in accordance with a timetable which shall be accessible to pupils and to the principal and supervisory officers; timetable

(*h*) to participate in professional activity days as designated by the board under the regulations; professional activity days

(*i*) to notify such person as is designated by the board if he is to be absent from school and the reason therefor; absence from school

(*j*) to deliver the register, the school key and other school property in his possession to the board on demand, or when his agreement with the board has expired, or when for any reason his employment has ceased; and school property

(*k*) to use and permit to be used as a textbook in a class that he teaches in an elementary or a secondary school, textbooks

(i) in a subject area for which textbooks are approved by the Minister, only textbooks that are approved by the Minister, and

(ii) in all subject areas, only textbooks that are approved by the board. R.S.O. 1970, c. 424, s. 21 (1); 1972, c. 77, s. 13 (1); 1973, c. 92, s. 8 (1, 2), *amended*.

Refusal to give up school property

(2) A teacher who refuses, on demand or order of the board that operates the school concerned, to deliver to the board any school property in his possession forfeits any claim that he may have against the board. 1972, c. 77, s. 12.

Teachers, conferences

(3) Teachers may organize themselves for the purpose of conducting professional development conferences and seminars. R.S.O. 1970, c. 424, s. 22, *amended*.

Duties of principal,

230. It is the duty of a principal of a school, in addition to his duties as a teacher,

discipline

(*a*) to maintain proper order and discipline in the school;

co-operation

(*b*) to develop co-operation and co-ordination of effort among the members of the staff of the school;

register pupils and record attendance

(*c*) to register the pupils and to ensure that the attendance of pupils for every school day is recorded either in the register supplied by the Minister in accordance with the instructions contained therein or in such other manner as is approved by the Minister;

pupil records

(*d*) to establish and maintain, and to retain, transfer and dispose of, in the manner prescribed by the regulations, a record in respect of each pupil enrolled in the school;

timetable

(*e*) to prepare a timetable, to conduct the school according to such timetable and the school year calendar or calendars applicable thereto, to make the calendar or calendars and the timetable accessible to the pupils, teachers and supervisory officers and to assign classes and subjects to the teachers;

examinations and reports

(*f*) to hold, subject to the approval of the appropriate supervisory officer, such examinations as he considers necessary for the promotion of pupils or for any other purpose and report as required by the board the progress of the pupil to his parent or guardian where the pupil is a minor and otherwise to the pupil;

promote pupils

(*g*) subject to revision by the appropriate supervisory officer, to promote such pupils as he considers proper and to issue to each such pupil a statement thereof;

(*h*) to ensure that all textbooks used by pupils are those approved by the board and, in the case of subject areas for which the Minister approves textbooks, those approved by the Minister; textbooks

(*i*) to furnish to the Ministry and to the appropriate supervisory officer any information that it may be in his power to give respecting the condition of the school premises, the discipline of the school, the progress of the pupils and any other matter affecting the interests of the school, and to prepare such reports for the board as are required by the board; reports

(*j*) to give assiduous attention to the health and comfort of the pupils, to the cleanliness, temperature and ventilation of the school, to the care of all teaching materials and other school property, and to the condition and appearance of the school buildings and grounds; care of pupils and property

(*k*) to report promptly to the board and to the municipal health officer or to the school medical officer where one has been appointed, when he has reason to suspect the existence of any infectious or contagious disease in the school, and of the unsanitary condition of any part of the school building or the school grounds; report to M.O.H.

(*l*) to refuse admission to the school of any person who he believes is infected with or exposed to communicable diseases requiring quarantine and placarding under regulations made pursuant to *The Public Health Act* until furnished with a certificate of a medical officer of health or of a legally qualified medical practitioner approved by him that all danger from exposure to contact with such person has passed; persons with communicable diseases R.S.O. 1970, c. 377

(*m*) subject to an appeal to the board, to refuse to admit to the school or classroom a person whose presence in the school or classroom would in his judgment be detrimental to the physical or mental well-being of the pupils; and access to school or class

(*n*) to maintain a visitor's book in the school when so determined by the board. R.S.O. 1970, c. 424, s. 21 (2); 1972, c. 77, s. 13 (2, 3); 1973, c. 92, s. 8 (3), *amended*. visitor's book

Pupil Records

Interpretation

231.—(1) In this section, except in subsection 12, "record" in respect of a pupil means a record maintained or retained by the principal of a school in accordance with the regulations.

Pupil records privileged

(2) A record is privileged for the information and use of supervisory officers and the principal and teachers of the school for the improvement of instruction of the pupil, and such record,

(*a*) subject to subsections 3 and 5, is not available to any other person; and

(*b*) except for the purposes of subsection 5, is not admissible in evidence for any purpose in any trial, inquest, inquiry, examination, hearing or other proceeding, except to prove the establishment, maintenance, retention or transfer of the record,

without the written permission of the parent or guardian of the pupil or, where the pupil is an adult, the written permission of the pupil.

Right of parent and pupil

(3) A pupil, and his parent or guardian where the pupil is a minor, is entitled to examine the record of such pupil.

Idem

(4) Where, in the opinion of a pupil who is an adult, or of the parent or guardian of a pupil who is a minor, information recorded upon the record of the pupil is,

(*a*) inaccurately recorded; or

(*b*) not conducive to the improvement of instruction of the pupil,

such pupil, parent or guardian, as the case may be, may, in writing, request the principal to correct the alleged inaccuracy in, or to remove the impugned information from, such record. 1972, c. 77, s. 14, *part*.

Reference where disagreement

(5) Where the principal refuses to comply with a request under subsection 4, the pupil, parent or guardian who made the request may, in writing, require the principal to refer the

request to the appropriate supervisory officer who shall either require the principal to comply with the request or submit the record and the request to a person designated by the Minister, and such person shall hold a hearing at which the principal and the person who made the request are the parties to the proceedings, and the person so designated shall, after the hearing, decide the matter, and his decision is final and binding upon the parties to the proceedings. 1973, c. 92, s. 9.

Use re further education or employment

(6) Nothing in subsection 2 prohibits the use by the principal of the record in respect of a pupil to assist in the preparation of,

(*a*) a report required by this Act or the regulations; or

(*b*) a report,

(i) for an educational institution or for the pupil or former pupil, in respect of an application for further education, or

(ii) for the pupil or former pupil in respect of an application for employment,

where a written request is made by the former pupil, the pupil where he is an adult, or the parent or guardian of the pupil where the pupil is a minor.

Information for Minister or board

(7) Nothing in this section prevents the compilation and delivery of such information as may be required by the Minister or by the board.

No action re content

(8) No action shall be brought against any person in respect of the content of a record.

Testimony re content

(9) Except where the record has been introduced in evidence as provided in this section, no person shall be required in any trial or other proceeding to give evidence in respect of the content of a record.

Secrecy re contents

(10) Except as permitted under this section, every person shall preserve secrecy in respect of the content of a record that comes to his knowledge in the course of his duties or employment, and no such person shall communicate any such knowledge to any other person except,

(*a*) as may be required in the performance of his duties; or

(*b*) with the written consent of the parent or guardian of the pupil where the pupil is a minor; or

(*c*) with the written consent of the pupil where the pupil is an adult.

Interpretation

(11) For the purposes of this section, "guardian" includes a person, society or corporation who or that has custody of a pupil.

Application to former records

(12) This section, except subsections 3, 4 and 5, applies *mutatis mutandis* to a record established and maintained in respect of a pupil or retained in respect of a former pupil prior to the 1st day of September, 1972. 1972, c. 77, s. 14, *part*.

Use of record in disciplinary cases

(13) Nothing in this section prevents the use of a record in respect of a pupil by the principal of the school attended by the pupil or the board that operates the school for the purposes of a disciplinary proceeding instituted by the principal in respect of conduct for which the pupil is responsible to the principal. *New*.

Boards of Reference

Interpretation

232. In sections 233 to 242,

(*a*) "contract" means a contract of employment between a teacher and a board;

(*b*) "employed" means employed as a permanent teacher by a board;

(*c*) "judge" means a judge of a county or district court;

(*d*) "teacher" means a person qualified to teach in an elementary or secondary school and employed by a board on the terms and conditions contained in the form of contract prescribed for a permanent teacher. R.S.O. 1970, c. 424, s. 23, *amended*.

Termination of contract by board

233.—(1) The dismissal of a teacher, or the termination of the contract of a teacher, by a board shall be by notice in writing, which shall state the reasons therefor, in accordance with the terms of the contract.

Termination of contract by teacher

(2) Where a teacher is employed by a board, the termination of the contract by the teacher shall be by notice in writing in accordance with the terms of the contract.

Application for board

(3) Where a teacher is dismissed or the contract of a teacher is terminated by the board or the teacher, the teacher or board if not in agreement with the dismissal or termination may at any time within twenty-one days after receiving the

notice referred to in subsection 1 or 2, as the case may be, apply in writing by registered letter to the Minister for a Board of Reference, stating the disagreement.

Service of notice

(4) The applicant shall send a copy of the application by registered mail to the other party to the disagreement on the same day as the application is sent to the Minister. R.S.O. 1970, c. 424, s. 24.

Appointment in place of teacher dismissed

234.—(1) A board shall not make a permanent appointment to take the place of a teacher who is dismissed or whose contract has been terminated in a manner not agreeable to the teacher until,

(*a*) the time prescribed for applying for a Board of Reference has elapsed and the teacher has not applied for a Board of Reference and sent a copy of the application to the board, as provided in section 233;

(*b*) the board has received from the teacher notice in writing that no application will be made under section 233;

(*c*) the board has received from the Minister notice in writing that an application made by the teacher under section 233 has been withdrawn;

(*d*) the board has received from the Minister notice in writing that he has refused an application made by the teacher under section 233;

(*e*) the board has received from the Minister notice in writing that the teacher, being the applicant, has failed to comply with the requirements of subsection 3 of section 235; or

(*f*) the board has received from the Minister a copy of the direction of the Board of Reference under section 238 directing the discontinuance of the contract,

whichever first occurs.

New contract after termination of contract by teacher

(2) A teacher who terminates a contract in a manner not agreeable to the board shall not enter into a contract with another board after the teacher has received notice of the application of the board for a Board of Reference until,

(*a*) the teacher has received from the Minister notice in writing that an application made by the board under section 233 has been withdrawn;

(*b*) the teacher has received from the Minister notice in writing that he has refused an application made by the board under section 233;

(*c*) the teacher has received from the Minister notice in writing that the board, being the applicant, has failed to comply with the requirements of subsection 3 of section 235; or

(*d*) the teacher has received from the Board of Reference a copy of the direction of the Board of Reference under section 238 directing the discontinuance of the contract,

whichever first occurs. R.S.O. 1970, c. 424, s. 25, *amended*.

Application for Board of Reference

235.—(1) Upon receipt of an application for a Board of Reference, the Minister shall cause notice of the application to be sent by registered mail to the other party to the disagreement and shall within thirty days of sending the notice inquire into the disagreement and shall, within the same time,

(*a*) refuse to grant the Board of Reference; or

(*b*) grant the Board of Reference and appoint a judge to act as chairman thereof. R.S.O. 1970, c. 424, s. 26 (1).

Appointment

(2) Where, under subsection 1, a judge is appointed after the expiry of thirty days referred to therein to act as chairman of a Board of Reference, the failure to make the appointment within the thirty-day period does not invalidate the Board of Reference or the appointment of the judge as chairman thereof, provided the Board of Reference is granted in accordance with subsection 1. 1971, c. 90, s. 4.

Naming of representatives

(3) Upon appointing a judge to act as chairman of a Board of Reference, the Minister shall cause notice thereof to be sent by registered mail to the board and teacher involved in the disagreement and the notice shall require each of them to name to the Board of Reference a representative who is not the teacher involved or a member of the board and to send or cause to be sent by hand or by registered mail to the Minister a notice of such nomination within twelve days of the sending of the notice by the Minister.

Failure to name representatives

(4) If the applicant fails to comply with the requirements of subsection 3, the application shall be deemed to be abandoned and the Minister shall cause notice thereof to be sent by registered mail to the other party to the disagreement.

(5) If the respondent fails to comply with the requirements of subsection 3, the Minister shall direct the continuance of the contract. Idem

(6) If the representative of the board or the teacher, having been named, fails to appear at the hearing, the chairman of the Board of Reference shall name a representative for the board or teacher, as the case may be. R.S.O. 1970, c. 424, s. 26 (3-6). Failure of representatives to appear

(7) Where the Minister grants a Board of Reference, the applicant shall be deemed to have met the conditions precedent to the granting of a Board of Reference. *New*. Applicant deemed eligible

(8) Where, after the hearing has commenced, the representative of the board or of the teacher dies, for any reason is unable to continue to act or withdraws from the Board of Reference, the other representative shall withdraw and the decision of the Board of Reference shall be made by the chairman. 1972, c. 160, s. 1. Death or withdrawal of representative

(9) Where, before the hearing has commenced, the chairman of a Board of Reference dies, disqualifies himself, for any reason is unable to act or is prohibited from acting, the Minister shall appoint another judge to act as chairman and the Board of Reference shall proceed in accordance with this Part except that for the purposes of section 236 the date of appointment of the chairman is the date of appointment of the chairman appointed to act under this section. Death, etc., of chairman before hearing

(10) Where, after the hearing has commenced and before the chairman of a Board of Reference reports to the Minister and to the parties, New Board of Reference after hearing commences

(*a*) the chairman dies, disqualifies himself, for any reason is unable to continue as chairman, or is prohibited from acting; or

(*b*) the Board of Reference is prohibited from acting or proceeding,

the Board of Reference is terminated and, where, within ninety days after the death, disqualification, inability to continue or prohibition referred to in clause *a* or *b*, the person who applied for the Board of Reference requests the Minister in writing to grant another Board of Reference, the Minister may grant a new Board of Reference, in which case the provisions of this Part apply *mutatis mutandis* except that the representatives named to the new Board of Reference shall not be the representatives named to the Board of Reference

terminated under this subsection and the determination and direction of the costs under section 241 may include the costs, if any, incurred in respect of the Board of Reference terminated under this subsection.

Procedure at new Board of Reference

(11) Where a new Board of Reference is granted under subsection 10, the hearing shall proceed as if the hearing by the Board of Reference terminated under subsection 10 had not commenced. 1972, c. 160, s. 2.

Place and time of hearing

236. The chairman of the Board of Reference shall, within thirty days of his appointment, and upon reasonable notice thereof to the parties, convene the Board of Reference in any appropriate and convenient court house or municipal or school building and at such time as he may appoint. R.S.O. 1970, c. 424, s. 27.

Duty to inquire and powers of judge
1971, c. 49

237. The Board of Reference shall inquire into the matter in dispute and for such purposes the chairman has the powers of a commission under Part II of *The Public Inquiries Act, 1971*, which Part applies to such inquiry as if it were an inquiry under that Act. R.S.O. 1970, c. 424, s. 28 (1), *amended*.

Direction of Board of Reference to report

238.—(1) A Board of Reference shall direct the continuance of the contract or the discontinuance of the contract. 1972, c. 160, s. 4, *part*.

Chairman of Board of Reference to report

(2) The chairman of a Board of Reference shall, within seven days after,

(*a*) the application for the Board of Reference is withdrawn; or

(*b*) the matter in dispute has been settled by the parties to the Board of Reference; or

(*c*) the completion of the hearing and the receipt of any written submissions required by him,

report to the Minister and the parties the disposition of the application. 1972, c. 160, s. 4, *part, amended*.

New Board of Reference provided
1971, c. 48

239. Where, pursuant to an application for judicial review under *The Judicial Review Procedure Act, 1971*, the report or the direction of a Board of Reference is set aside, the Minister may grant a new Board of Reference if the board or teacher applies therefor to the Minister by registered mail within fifteen days after the date of the

order of the court setting aside the report or direction, and the provisions of sections 232 to 242 apply *mutatis mutandis* in respect of the new Board of Reference. 1972, c. 77, s. 15, *amended*.

Direction of Board

240.—(1) The direction of the Board of Reference under section 238 is binding upon the board and the teacher. R.S.O. 1970, c. 424, s. 30 (1).

Failure to comply with direction of Board

(2) If a board fails to comply with the direction of the Board of Reference under section 238, the Minister may direct that any portion of the amounts then or thereafter payable to the board under the authority of any Act of the Legislature shall not be paid to the board until it has complied with the direction. R.S.O. 1970, c. 424, s. 30 (2); 1972, c. 77, s. 16.

Idem

(3) If a teacher fails to comply with the direction of the Board of Reference under section 238, the Minister may suspend the certificate of qualification of the teacher for such period as he considers advisable. R.S.O. 1970, c. 424, s. 30 (3).

Payment of costs

241. Subject to the regulations made under section 242 the chairman of the Board of Reference shall determine and direct the costs to be paid by either or both parties in the disagreement, and every such order may be enforced in the same manner as an order as to costs made in an action in a county or district court. R.S.O. 1970, c. 424, s. 31.

Regulations

242. The Lieutenant Governor in Council may make regulations,

(*a*) fixing the remuneration of members of Boards of Reference and defining, prescribing and limiting other items of expense, including travelling and living expenses, which shall be included in the costs of a Board of Reference;

(*b*) regulating the practice and procedure to be followed upon any reference; and

(*c*) respecting any matter necessary or advisable to carry out effectively the intent and purpose of sections 233 to 241. R.S.O. 1970, c. 424, s. 32.

PART X

SUPERVISORY OFFICERS

Qualifications of supervisory officers

243. Every supervisory officer appointed under this Part shall hold the qualifications required by the regulations for a supervisory officer. R.S.O. 1970, c. 424, s. 67, *part*.

Director of education

244. A board of education that had an enrolment in its public and secondary schools of 2,000 or more on the 30th

day of September of any year and does not have a director of education shall, on or before the 1st day of August of the year following, appoint a director of education, and he shall hold the qualifications required by the regulations for a supervisory officer who is responsible to the board for the development, implementation, operation and supervision of educational programs in the schools. R.S.O. 1970, c. 425, s. 44 (2); 1972, c. 75, s. 15 (2), *amended*.

Idem

245. A separate school board that had an enrolment in its schools of 2,000 or more on the 30th day of September of any year and does not have a director of education shall, on or before the 1st day of August of the year following, appoint a director of education, and he shall hold the qualifications required by the regulations for a supervisory officer who is responsible to the board for the development, implementation, operation and supervision of educational programs in the schools. R.S.O. 1970, c. 430, s. 93 (2); 1972, c. 76, s. 32 (2), *amended*.

Supervisory officers

246. A board of education having an enrolment in its public and secondary schools of fewer than 2,000 and a county or district combined separate school board having an enrolment in its schools of fewer than 2,000 may appoint such supervisory officers as are approved by the Minister. R.S.O. 1970, c. 425, s. 44 (3); R.S.O. 1970, c. 430, s. 93 (3).

Chief executive officer

247.—(1) A director of education is the chief education officer and the chief executive officer of the board by which he is employed and is a supervisory officer who qualified as such as a teacher. R.S.O. 1970, c. 424, s. 68 (3), *amended*.

Idem

(2) The chief executive officer of a board shall, within policies established by the board, develop and maintain an effective organization and the programs required to implement such policies. *New*.

Supervisory officers

248. Every board that is required to appoint a director of education shall, subject to the regulations, employ such other supervisory officers as it considers necessary to supervise adequately all aspects of the programs under its jurisdiction. R.S.O. 1970, c. 424, s. 67, *amended*.

Appointment of supervisory officers

249.—(1) Where a board appoints one or more supervisory officers, the board,

(*a*) shall, subject to the regulations, designate the title and area of responsibility of each such officer;

(*b*) shall appoint an English-speaking supervisory officer for schools and classes where English is the language

of instruction, and a French-speaking supervisory officer for schools and classes where French is the language of instruction, or shall arrange with another board or with the Minister for the services of an English-speaking supervisory officer or a French-speaking supervisory officer where such officer is not appointed by the board; and

(*c*) may assign to a supervisory officer such administrative duties, in addition to those prescribed in section 250 and the regulations, as the board considers expedient.

Confirmation by Minister

(2) No person shall be appointed as a supervisory officer by a board until notice in writing of the proposed appointment and the area of responsibility to be assigned has been given to the Minister and the Minister has confirmed that the person to be appointed is eligible for the position. R.S.O. 1970, c. 424, s. 68 (1, 2), *amended*.

Duties of supervisory officers:

250.—(1) Subject to the regulations, a board or the Minister shall assign the following duties to its or his supervisory officer or officers,

assist teachers

(*a*) to bring about improvement in the quality of education by assisting teachers in their practice;

co-operate with boards

(*b*) to assist and co-operate with boards to the end that the schools may best serve the needs of the pupils;

visit schools

(*c*) to visit schools and classrooms as the Minister may direct and, where the supervisory officer has been appointed by a board, as the board may direct;

prepare reports

(*d*) to prepare a report of a visit to a school or classroom when required by the Minister and, where the supervisory officer has been appointed by a board, when required by the board and to give to a teacher referred to in any such report a copy of the portion of the report that refers to the teacher;

Acts and regulations

(*e*) to ensure that the schools under his jurisdiction are conducted in accordance with this Act and the regulations;

annual report to Minister

(*f*) to make a general annual report as to the performance of his duties and the condition of the schools in his area of jurisdiction when required by the Minister and, where the supervisory officer has been appointed by a board, when required by the board;

report to M.O.H.

(*g*) to report to the appropriate medical officer of health any case in which the school buildings or premises are found to be in an unsanitary condition;

report to the Minister

(*h*) to furnish the Minister with information respecting any school in his area of jurisdiction whenever required to do so;

supervise business

(*i*) to supervise the business functions of the board; and

supervise buildings and property

(*j*) to supervise the use and maintenance of the buildings and property of the board. R.S.O. 1970, c. 424, s. 70 (1); 1971, c. 90, s. 8, *amended*.

Responsibility to Minister

(2) Every supervisory officer appointed by the Minister is responsible to the Minister for the performance of his duties.

Responsibility to board

(3) Every supervisory officer appointed by a board is responsible to the board through the chief executive officer for the performance of the duties assigned to him by the board. R.S.O. 1970, c. 424, s. 70 (2, 3), *amended*.

Full-time position

(4) Except as otherwise provided by this Act or the regulations, a supervisory officer shall not, without the approval of the Minister, hold any other office, have any other employment or follow any other profession or calling, during his tenure as a supervisory officer. R.S.O. 1970, c. 424, s. 69 (6), *amended*.

Suspension or dismissal of supervisory officer by board

251.—(1) A supervisory officer appointed by a board may be suspended or dismissed by the board, in accordance with the regulations, for neglect of duty, misconduct, or inefficiency.

Notice re suspension or dismissal

(2) Where a board suspends or dismisses a supervisory officer, the board shall forthwith notify in writing the supervisory officer and the Minister of the suspension or dismissal and the reasons therefor. R.S.O. 1970, c. 424, s. 69 (2), *amended*.

PART XI

FRENCH LANGUAGE INSTRUCTION

Elementary

French-language elementary schools and classes

252.—(1) A board of education, public school board or separate school board may establish and maintain elementary schools or classes in elementary schools, including kindergarten and junior kindergarten classes, for the purpose of providing for the use of the French language in instruction.

French-language classes

(2) Where, after the first school day in September and on or before the 1st day of April next following, written evidence is presented to a board referred to in subsection 1 that a

number of French-speaking pupils resident in the school section or separate school zone have elected to be taught in the French language, the board shall forthwith determine whether French-speaking pupils can be assembled for this purpose in one or more classes or groups of twenty-five or more and, where the board determines that such pupils can be so assembled, it shall provide for the use of the French language in instruction in such classes or groups commencing on the first school day of the following school year.

Idem

(3) Where the evidence referred to in subsection 2 is presented to the board after the 1st day of April and before the first school day in September next following, the board shall make the determination required under subsection 2 and, where the board determines that French-speaking pupils can be assembled in classes or groups of twenty-five or more for the use of the French language in instruction, the board may, commencing on the first school day in January of the following year, and shall, commencing on the first school day in September of such following year, provide for the use of the French language in instruction in such classes or groups.

French-language schools

(4) Where a board referred to in subsection 1 provides or is required to provide for the use of the French language in instruction and in the opinion of the board the number of pupils who elect to be taught in the French language so warrants, the board shall provide a French-language elementary school.

English as subject of instruction

(5) Notwithstanding subsections 1, 2, 3 and 4, English may be a subject of instruction in any grade and shall be a subject of instruction in Grade 5 and all subsequent grades in an elementary school.

Admission of pupils other than French-speaking pupils

(6) A board, on the request of the parent or guardian of an English-speaking pupil of the board, or of the pupil where he is an adult, may admit the pupil to a class formed under subsection 1, 2 or 3 or to a school provided under subsection 4 if his admission is approved by majority vote of an admissions committee appointed by the board, and composed of the principal of the school to which admission is requested, a teacher who uses the French language in instruction in such school and, subject to subsection 7, a French-speaking supervisory officer employed by the board.

Where board has no French-speaking supervisory officer

(7) Where a board does not employ a French-speaking supervisory officer, it shall arrange for a French-speaking supervisory officer employed by another board or by the Minister to serve as a member of the admissions committee.

English-language schools or classes

(8) Where a board has provided one or more French-language elementary schools under subsection 4 and a number of pupils of the board elect to be taught in the English language, subsections 1, 2 and 3 apply *mutatis mutandis* in respect of provision for the use of the English language in instruction. 1973, c. 92, s. 12, *part, amended*.

Duties and responsibilities of advisory committee in public schools

253. Where a board of education has established a French-language advisory committee under section 256, or an English-language advisory committee under section 266, the committee has the same duties and responsibilities in respect of the French-language schools and classes or English-language schools and classes, as the case may be, that are provided in the public schools operated by the board of education as it has in respect of French-language instructional units or English-language schools and classes, as the case may be, for secondary school purposes. 1973, c. 92, s. 12, *part*.

Secondary

Interpretation

254. In sections 255 to 271,

(*a*) "board" means a board of education;

(*b*) "committee" means a French-language advisory committee formed under section 256;

(*c*) "French-language instructional unit" means a class, group of classes, or school in which French is the language of instruction;

(*d*) "ratepayer" in respect of a board means a person entitled to vote at an election of members of the board. 1973, c. 91, s. 5, *part*.

French-language schools or classes

255.—(1) A board may establish and maintain secondary schools or classes in secondary schools for the purpose of providing for the use of the French language in instruction, or may enter into an agreement with another board to provide for the admission of resident pupils of the first-mentioned board to one or more French-language instructional units operated by such other board.

French-language schools

(2) Where, after the first school day in September and on or before the 1st day of April next following, written evidence is presented to a board that a number of French-speaking pupils resident in the secondary school district have elected to be taught in the French language, the board shall forthwith determine whether French-speaking pupils can be assembled for this purpose in one or more classes or groups of twenty

or more and, where the board determines that such pupils can be so assembled, it shall provide for the use of the French language in instruction in such classes or groups commencing on the first school day in the following school year.

Idem

(3) Where the evidence referred to in subsection 2 is presented to the board after the 1st day of April and before the first school day in September next following, the board shall make the determination required under subsection 2 and, where the board determines that French-speaking pupils can be assembled in classes or groups of twenty or more for the use of the French language in instruction, the board may, commencing on the first school day in January of the following year, and shall, commencing on the first school day in September of such following year, provide for the use of the French language in instruction in such classes or groups.

French-language secondary schools

(4) Where a board provides or is required to provide for the use of the French language in instruction in one or more classes in a secondary school and in the opinion of the board the number of French-speaking pupils who elect to be taught in the French language so warrants, the board shall provide an appropriate unit of a secondary school or, where practicable, a French-language secondary school.

Agreement with another board

(5) Where a board determines that the number of French-speaking pupils who elect to be taught in the French language is not sufficient to justify the establishment of a French-language secondary school, the board shall, in respect of the education of such pupils, consider the possibility of entering into an agreement with another board under section 156 or 160. 1973, c. 91, s. 5, *part*.

Establishment of committee

256.—(1) Where,

(*a*) ten or more French-speaking ratepayers of a secondary school district apply in writing to the board for the establishment or extension in a secondary school of a class, group or program in which the French language is or is to be used in instruction; or

(*b*) a board establishes or extends or decides to establish or extend a class, group or program in which the French language is or is to be used in instruction,

the board shall, within two months of the application, establishment, extension or decision to establish or extend, by resolution, establish a committee and provide for the holding of elections of members thereof, and such elections shall, subject to subsection 7, be held within such period.

Composition

(2) The committee shall consist of nine members and shall be composed of,

(*a*) three members of the board appointed by the board; and

(*b*) six French-speaking ratepayers who are not members of the board but have the qualifications required for members of the board, elected by French-speaking ratepayers of the secondary school district.

Member of elementary board

(3) A member of the committee under clause *b* of subsection 2 may be a member of an elementary school board.

Term of office

(4) A member of a committee shall hold office during the term of the members of the board and until a new board is organized.

Apportionment of members

(5) The board, subject to subsection 8, shall apportion the number of members under clause *b* of subsection 2 among the municipalities and the localities, or among parts or groups of such municipalities or localities, within the jurisdiction of the board as nearly as is practicable in the proportion that the number of French-speaking pupils who elect to be taught in the French language from each such municipality, locality or part or group thereof bears to the total number of such pupils within the area of jurisdiction of the board.

Meetings of French-speaking ratepayers to elect committee members

(6) The board shall make provision for a meeting of its French-speaking ratepayers in respect of each area to which one or more members are apportioned under subsection 5 for the purpose of electing such member or members to the committee, and shall advertise in each of its schools and in the public media serving the local population, the place, date and time of the meeting, and take such additional action to publicize the meeting as it considers expedient.

Idem

(7) Where the election of members of a committee under subsection 1 would otherwise be held within three months before the date of the regular election of members of the board, the election required under subsection 1 shall be held in accordance with section 257.

Consultation with committee re apportionment

(8) For the purpose of the second and subsequent elections of members to a committee, the board shall consult with the committee before making the apportionment referred to in subsection 5 and shall make such apportionment on or before the 1st day of December in the year of a regular election of the board. 1973, c. 91, s. 5, *part, amended*.

257. Where a committee has been established and a new board has been elected, a meeting provided under subsection 6 of section 256 to elect a member or members to the committee shall be held on or before the second Wednesday following the first meeting of the newly-elected board commencing at 8 o'clock in the afternoon on such date and at such place as the board may determine, and such meeting may also consider any other matters brought before it, and the provisions of subsection 6 of section 256 respecting the publicizing of the meeting apply. 1973, c. 91, s. 5, *part*.

French-speaking ratepayers to elect subsequent members to committee

258.—(1) The secretary of the board or a person appointed by the board shall call to order each meeting of French-speaking ratepayers under sections 256 and 257 and shall preside thereat for the purpose of electing a chairman of the meeting.

Election of chairman of meeting

(2) The chairman of a meeting shall appoint a secretary who shall record the proceedings of the meeting and perform such other duties as are required by the chairman.

Secretary of meeting

(3) The chairman of a meeting shall conduct the election of the member or members of the committee to be elected at such meeting and shall submit all motions to the meeting in the manner desired by the majority, and the chairman is entitled to vote on any motion and, in the case of an equality of votes with respect to the election of a member of the committee, the chairman shall provide for drawing lots to determine which of the candidates is elected and a motion on which there is an equality of votes is lost.

Procedure at meeting

(4) Notice in writing shall be given by the secretary of a meeting to the secretary of the board designating by their names and addresses the person or persons elected as members of the committee. 1973, c. 91, s. 5, *part*.

Notice of result of election

259.—(1) At the first meeting of the committee, the members shall elect from among themselves a chairman and a vice-chairman.

Chairman and vice-chairman of committee

(2) A majority of the members of the committee constitutes a quorum, and the vote of a majority of the members present at a meeting is necessary to bind the committee.

Quorum

(3) On every motion, the chairman may vote, and a motion on which there is an equality of votes is lost.

Vote of chairman, equality of votes

(4) A special meeting of the committee may be called by the chairman of the committee and shall be called by the chairman upon the request in writing of two members of the

Special meeting

committee who shall specify the objects for which the meeting is to be held, and the objects shall be stated in the notice calling the meeting. 1973, c. 91, s. 5, *part*.

Vacancies

260. Every vacancy on a committee for any cause shall be filled by appointment by the board in the case of appointed members and by the elected members of the committee in the case of elected members and every person so appointed shall hold office for the unexpired term of the member whose seat has become vacant. 1973, c. 91, s. 5, *part*.

Recommendations

261.—(1) A committee is responsible for developing proposals designed to meet the educational and cultural needs of the French-speaking pupils and the French-speaking community and for such purpose may make recommendations in respect of,

(*a*) the provision of suitable sites, accommodation and equipment;

(*b*) the establishment, operation and management of French-language instructional units;

(*c*) the use of the French language and of the English language in French-language instructional units;

(*d*) the recruitment and appointment of the required teaching, supervisory and administrative personnel;

(*e*) the establishment of the course of study and the use of textbooks;

(*f*) the development and establishment of special education programs;

(*g*) the establishment of attendance areas for French-language instructional units;

(*h*) the provision of transportation for pupils;

(*i*) the entering into agreements with other boards in respect of the provision of instruction in the French language and supervisory and consultative services;

(*j*) the provision of board, lodging, and transportation for pupils;

(*k*) the development and establishment of adult education programs;

(*l*) the use of any facility and means necessary to meet the educational and cultural needs of the French-speaking community;

(*m*) the provision of summer school programs; and

(*n*) any other matter pertaining to French-language education for French-speaking pupils.

Committee report to board

(2) The committee shall report at each regular meeting of the board.

Board to seek advice of committee

(3) The board shall seek the advice of the committee on all matters affecting the establishment, program, administration and termination of French-language instructional units before any final decision regarding such matters is taken by the board and shall provide adequate accommodation and staff to implement the decision of the board.

Consideration of recommendations by board

(4) The board shall consider any recommendation submitted to it in writing by the committee and shall not refuse its approval without having given the committee an opportunity to be heard by the board or by any committee of the board to which such recommendation is referred and, where a board refuses a recommendation of the committee, it shall, within thirty days after receiving the recommendation of the committee, forward to the committee written reasons for its refusal.

Referral by committee to Languages of Instruction Commission

(5) Upon receipt of a refusal and the reasons therefor under subsection 4, the committee may, by motion, refer the matter to the Languages of Instruction Commission of Ontario, in which case it shall send to the Commission and to the board copies of the motion, the recommendation of the committee and the written reasons of the board for its refusal. 1973, c. 91, s. 5, *part*.

Attendance of committee chairman at board committee meeting

262.—(1) The chairman of the committee or a member of the committee designated by him may attend any meeting of a committee of the board and shall be given the opportunity to be heard at such meeting in respect of any matter that affects French-speaking pupils and that is within the jurisdiction of such committee of the board.

Distribution of administrative materials

(2) Notices, agendas and minutes in respect of meetings of the board shall be distributed to members of the committee together with such supporting documents as may be agreed upon by the board and the committee.

Formation of sub-committees

(3) The committee may, at its discretion, form sub-committees to assist it in its work.

Committee may hold public meetings

(4) The committee may hold such public meetings to report upon its work as it considers necessary or desirable. 1973, c. 91, s. 5, *part*.

Resources and services to be provided by board

263.—(1) The board shall make available to the committee the resources and services provided for a committee of the board.

Annual report of committee

(2) The chairman of the committee shall cause to be prepared in French and English an annual report, and the report shall be included in that of the board where the board publishes a report.

Services of professional staff to be provided

(3) The committee may, through the chief executive officer of the board, obtain the advice and assistance of such supervisory officers and teachers employed by the board as the committee may request. 1973, c. 91, s. 5, *part*.

Allowance

264.—(1) Each member of the committee who is not a member of the board shall receive an allowance in accordance with subsection 1 of section 164, except that the maximum allowance shall be based upon the enrolment in French-language instructional units and subsection 5 of the said section 164 applies *mutatis mutandis* to such member.

Attendance at meetings and conferences

(2) The board may authorize a member of the committee to attend on the same basis as a member of the board such conferences and meetings as the board considers necessary or desirable for the effective functioning of the committee, and subsections 3 and 4 of section 164 apply *mutatis mutandis* to a member of the committee.

Provincial association membership fee

(3) The board shall, on behalf of the members of the committee, pay all or part of a fee required for membership in a provincial association of French-language committees where the committee desires such membership. 1973, c. 91, s. 5, *part*.

English or Anglais as subject required in grades 9 to 12

265. Notwithstanding any other provision in this Part, English or Anglais shall be an obligatory subject of instruction for every pupil of grades 9 to 12 who is enrolled in a French-language school and shall be a required subject for a certificate or diploma issued to such a pupil. 1973, c. 91, s. 5, *part*.

English-language classes where French-language school or classes established

266.—(1) Where a board has provided one or more French-language secondary schools and a number of pupils of the board elect to be taught in the English language, section 255 applies *mutatis mutandis* in respect of provision for the use of the English language in instruction.

(2) Where the number of English-speaking pupils of a board is fewer than the number of pupils of the board for whom French is the language of instruction and, Establishment of English-language advisory committee

(*a*) ten or more English-speaking ratepayers of the secondary school district apply in writing to the board for the establishment or extension in a secondary school of a class, group or program in which the English language is or is to be used in instruction; or

(*b*) the board establishes or extends or decides to establish or extend a class, group or program in which the English language is or is to be used in instruction,

the board shall establish an English-language advisory committee, and the provisions of sections 254 to 267 that apply to a committee in respect of the French-speaking ratepayers, pupils and community and in respect of French-language instructional units apply *mutatis mutandis* to an English-language advisory committee in respect of the English-speaking ratepayers, pupils and community and in respect of schools or classes in which English is the language of instruction. 1973, c. 91, s. 5, *part*.

267.—(1) A board, on the request of an English-speaking pupil of the board or, where the pupil is a minor, of his parent or guardian, may admit the pupil to a French-language instructional unit if his admission is approved by a majority vote of an admissions committee appointed by the board and composed of the principal of the school in which the French-language instructional unit is operated, a French-language teacher of such school and, subject to subsection 2, a French-speaking supervisory officer employed by the board. Admission of pupils other than French-speaking pupils

(2) Where the board does not employ a French-speaking supervisory officer, it shall arrange for a French-speaking supervisory officer employed by another board or by the Minister to serve as a member of the admissions committee. 1973, c. 91, s. 5, *part*. Where board has no French-speaking supervisory officer

Languages of Instruction Commission of Ontario

268. In this Part, Interpretation

(*a*) "Commission" means the Languages of Instruction Commission of Ontario established under this Part;

(*b*) "committee" means a French-language advisory committee or an English-language advisory committee established under section 256;

(*c*) "ratepayer" in respect of a board means a person entitled to vote at an election of members of the board. 1973, c. 92, s. 18, *part*.

Establishment of Commission

269.—(1) A commission to be known as the Languages of Instruction Commission of Ontario is hereby established and shall be composed of five members appointed by the Lieutenant Governor in Council at least two of whom shall be French-speaking and at least two of whom shall be English-speaking, and one of the members shall be appointed as chairman.

Term, reappointment and remuneration

(2) Members of the Commission shall hold office for a term of three years, may be reappointed, and shall be paid such remuneration as may be determined by the Lieutenant Governor in Council.

Vacancies

(3) Where a vacancy occurs in the membership of the Commission, the vacancy may be filled for the unexpired portion of the term of the person whose office has become vacant.

Commission is responsible to the Minister

(4) The Commission is responsible to the Minister for its operation and shall be assisted by such employees in the public service of Ontario as the Minister may assign for the purpose and may, as required from time to time, obtain the services of a lawyer.

Quorum

(5) A quorum consists of three members of whom at least one shall be French-speaking and one English-speaking.

Recommendation

(6) A recommendation of the Commission requires the approval of at least a majority of the members of the Commission.

Duties of Commission

(7) The Commission shall consider matters referred to it by committees and requests for advice and assistance on questions in respect of which a committee may make recommendations, from boards and committees, and where there is no committee, from a group of ratepayers of the board concerned determined by the Commission to be representative of the French-speaking or English-speaking minority, as the case may be, within the jurisdiction of the board.

Spokesman

(8) A group referred to in subsection 7 shall name one of its members as its spokesman.

Referral to Commission by Minister

(9) The Minister may refer to the Commission any matter relating to instruction in the French language or, where the pupils of a board who receive instruction in the English

language are a minority of the pupils of a board, any matter relating to instruction in the English language.

Determination by Commission re establishment of advisory committee

(10) Where, within the area of jurisdiction of a board, there is doubt as to whether the French-speaking or English-speaking pupils are in the minority, the Commission has the power to determine whether there shall be a French-language advisory committee or an English-language advisory committee, or both, and the board shall establish such committee or committees as the Commission determines.

Investigation of irregularity

(11) Where, within thirty days of the election of a committee, the board or the committee requests the Commission to investigate an alleged irregularity respecting the election of a member of the committee, the Commission shall investigate such election and give the member an opportunity to make representation to the Commission and shall declare the member to be elected if the Commission finds the election and procedures to be substantially in accordance with this Part or declare his seat vacant if the Commission finds the election and procedures not to be substantially in accordance with this Part and shall send a copy of its decision and reasons therefor to the board or committee and to the member.

Deferral of action by board

(12) When a matter is referred to the Commission, the board concerned shall defer action thereon until the matter has been resolved.

Commission shall request mediation or reject referral

(13) When a matter is referred to the Commission it shall,

(*a*) forthwith appoint one or more mediators where it considers that the furtherance of such matter may be conducive to meeting the educational and cultural needs of the French-speaking or the English-speaking community; or

(*b*) except where a matter is referred by the Minister, take no further action where it considers that the furtherance of such matter is not conducive to meeting the educational and cultural needs of the French-speaking or the English-speaking community.

Where referral rejected

(14) Where the Commission takes no further action on a referral it shall forthwith send notice in writing of its decision and of the reasons therefor to the board, the Minister and either the committee or the spokesman referred to in subsection 8.

Notice of appointment of mediator

(15) Where the Commission makes an appointment under subsection 13 it shall communicate the name and address of each mediator to,

(*a*) the Minister;

(*b*) the secretary of the board; and

(*c*) the chairman of the committee,

and where a committee has not been established by a board, to the spokesman of the group referred to in subsection 8. 1973, c. 92, s. 18, *part, amended*.

Remuneration

270.—(1) Mediators shall be paid such remuneration as the Lieutenant Governor in Council may determine.

Who not eligible as mediator

(2) A mediator shall not be a member of the Commission.

Duties of mediator

(3) The mediator or mediators shall, after inquiring into the matter referred for mediation and conferring with the parties involved, endeavour to bring about an agreement and shall, within twenty-one days of being appointed, report to the Commission the agreement that has been reached, or the failure to bring about agreement.

Extension of period of mediation

(4) The period referred to in subsection 3 may be extended by the Commission or by agreement of the parties to the mediation. 1973, c. 92, s. 18, *part, amended*.

Duties of Commission

271.—(1) Where the report of the mediator or mediators to the Commission indicates failure to bring about an agreement, the Commission shall consider and inquire into all pertinent aspects of the matter referred to mediation and shall, within twenty-one days of its receipt of the report, recommend to the board in writing a course of action that it considers appropriate to settle the matter and shall send copies of its recommendation to the Minister and either the committee or the spokesman referred to in subsection 8 of section 269.

Report of board to Minister

(2) Within thirty days of its receipt of a copy of the recommendation of the Commission, the board shall report in writing to the Minister its decision in respect of the recommendation of the Commission and shall forward copies of the decision to the Commission and to the committee or spokesman of the group, as the case may be. 1973, c. 92, s. 18, *part*.

PART XII

GENERAL

272. The following are repealed: Repeals

1. *The Ministry of Education Act.* R.S.O. 1970, c. 111
2. *The Ministry of Education Amendment Act, 1971.* 1971, c. 89
3. Section 61 of *The Government Reorganization Act, 1972.* 1972, c. 1, s. 61
4. *The Ministry of Education Amendment Act, 1972.* 1972, c. 73
5. *The Ministry of Education Amendment Act, 1973.* 1973, c. 44
6. *The Public Schools Act.* R.S.O. 1970, c. 385
7. *The Public Schools Amendment Act, 1971.* 1971, c. 69
8. Paragraph 27 of the Schedule to *The Age of Majority and Accountability Act, 1971.* 1971, c. 98, Sched., par. 27
9. *The Public Schools Amendment Act, 1972.* 1972, c. 74
10. *The Public Schools Amendment Act, 1973.* 1973, c. 37
11. *The Schools Administration Act.* R.S.O. 1970, c. 424
12. *The Schools Administration Amendment Act, 1971.* 1971, c. 90
13. Section 62 of *The Government Reorganization Act, 1972.* 1972, c. 1, s. 62
14. *The Schools Administration Amendment Act, 1972.* 1972, c. 77
15. *The Schools Administration Amendment Act, 1972 (No. 2).* 1972, c. 160
16. *The Schools Administration Amendment Act, 1973.* 1973, c. 92
17. *The Schools Administration Amendment Act, 1973 (No. 2).* 1973, c. 118
18. *The Secondary Schools and Boards of Education Act.* R.S.O. 1970, c. 425
19. *The Secondary Schools and Boards of Education Amendment Act, 1971.* 1971, c. 68
20. Paragraph 29 of the Schedule to *The Age of Majority and Accountability Act, 1971.* 1971, c. 98, Sched., par. 29

1972, c. 1, s. 63

21. Section 63 of *The Government Reorganization Act, 1972.*

1972, c. 75

22. *The Secondary Schools and Boards of Education Amendment Act, 1972.*

1972, c. 136

23. *The Secondary Schools and Boards of Education Amendment Act, 1972 (No. 2).*

1973, c. 91

24. *The Secondary Schools and Boards of Education Amendment Act, 1973.*

R.S.O. 1970, c. 430

25. *The Separate Schools Act.*

1971, c. 70

26. *The Separate Schools Amendment Act, 1971.*

1971, c. 98, Sched., par. 31

27. Paragraph 31 of the Schedule to *The Age of Majority and Accountability Act, 1971.*

1972, c. 1, s. 64

28. Section 64 of *The Government Reorganization Act, 1972.*

1972, c. 76

29. *The Separate Schools Amendment Act, 1972.*

1972, c. 137

30. *The Separate Schools Amendment Act, 1972 (No. 2).*

1973, c. 117

31. *The Separate Schools Amendment Act, 1973.*

Commencement

273.—(1) This Act, except paragraph 43 of subsection 1 of section 147 and subsections 1, 2 and 3 of section 163, comes into force on the 1st day of January, 1975.

Idem

(2) Paragraph 43 of subsection 1 of section 147 and subsections 1, 2 and 3 of section 163 shall be deemed to have been in effect on and after the 1st day of January, 1974.

Short title

274. This Act may be cited as *The Education Act, 1974.*

The Education Act, 1974

1st Reading

May 30th, 1974

2nd Reading

November 18th, 1974

3rd Reading

December 20th, 1974

THE HON. T. L. WELLS
Minister of Education

1974

BILL 73 **Government Bill**

4TH SESSION, 29TH LEGISLATURE, ONTARIO
23 ELIZABETH II, 1974

An Act to provide for the Regulation of Private Vocational Schools

THE HON. J. A. C. AULD
Minister of Colleges and Universities

TORONTO
PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO

Explanatory Note

The purpose of the Bill is to provide an up to date registration system for private vocational schools to replace *The Trade Schools Regulation Act*.

The Bill will safeguard both the rights of the persons operating the schools and the persons using the schools. To this end a Private Vocational School Review Board is established to conduct hearings under the Act.

BILL 73 **1974**

An Act to provide for the Regulation of Private Vocational Schools

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. In this Act, **Interpretation**

(*a*) "Board" means the Private Vocational School Review Board established under this Act;

(*b*) "Minister" means the Minister of Colleges and Universities;

(*c*) "private vocational school" means a school or place at which instruction in any vocation is offered or provided by class room instruction or by correspondence, other than a college of applied arts and technology, a university recognized by the Ministry of Colleges and Universities or a school or course of instruction maintained under any other Act of the Legislature;

(*d*) "regulations" means the regulations made under this Act;

(*e*) "Superintendent" means the Superintendent of private vocational schools appointed under this Act;

(*f*) "vocation" means the skill and knowledge requisite for employment in any vocation prescribed by the regulations.

2.—(1) There shall be a Superintendent of private vocational schools who shall be appointed by the Lieutenant Governor in Council. **Superintendent**

(2) The Superintendent may exercise the powers and shall perform the duties conferred or imposed upon him by or under this Act. **Duties**

Board established

3.—(1) A board to be known as the "Private Vocational School Review Board" is hereby established and shall consist of not fewer than three persons appointed by the Lieutenant Governor in Council.

Term of Office

(2) No member of the Board shall hold office for more than five consecutive years.

Chairman

(3) The Lieutenant Governor in Council may designate one of the members of the Board as chairman and another of the members as vice-chairman.

Quorum

(4) A majority of the members of the Board constitutes a quorum.

Expenditures

4. The expenditures necessary for the purposes of the Board shall be payable for the fiscal year ending the 31st day of March, 1975 out of the Consolidated Revenue Fund and thereafter out of moneys appropriated therefor by the Legislature.

Registration required

5.—(1) No person shall conduct or operate a private vocational school unless he is registered by the Superintendent under this Act.

Expiration of registration

(2) Every registration under this Act expires on the 31st day of December of the year in respect of which the registration is effected.

Registration of private vocational schools

6.—(1) An applicant is entitled to registration or renewal of registration by the Superintendent to conduct or operate a private vocational school and to be issued a certificate of registration except where,

(*a*) having regard to his financial position, the applicant cannot reasonably be expected to be financially responsible in the conduct of the private vocational school; or

(*b*) the past conduct of the applicant affords reasonable grounds for belief that he will not carry on the private vocational school in accordance with law and with integrity and honesty; or

(*c*) the applicant is a corporation and,

(i) having regard to its financial position, it cannot reasonably be expected to be financially responsible in the conduct of the private vocational school, or

(ii) the past conduct of its officers or directors affords reasonable grounds for belief that the private vocational school will not be carried on in accordance with law and with integrity and honesty; or

(*d*) it can reasonably be expected that the course or courses of study or the method of training offered by the private vocational school will not provide the skill and knowledge requisite for employment in the vocation or vocations for which the applicant is offering instruction; or

(*e*) the applicant is carrying on activities that are, or will be, if the applicant is registered, in contravention of this Act or the regulations.

Conditions of registration

(2) A registration is subject to such terms and conditions to give effect to the purposes of this Act as are imposed by the Board or prescribed by the regulations.

Registration not transferable

(3) A registration is not transferable.

Refusal to register

7.—(1) Subject to section 8, the Superintendent may refuse to register an applicant where in the Superintendent's opinion the applicant is disentitled to registration under section 6.

Revocation and refusal to renew

(2) Subject to section 8, the Superintendent may refuse to renew or may suspend or revoke a registration for any reason that would disentitle the registrant to registration under section 6 if he were an applicant, or where the registrant is in breach of a term or condition of the registration.

Notice of proposal to refuse or revoke

8.—(1) Where the Superintendent proposes to refuse to grant or renew a registration or proposes to suspend or revoke a registration, he shall serve notice of his proposal, together with written reasons therefor, on the applicant or registrant.

Notice requiring hearing

(2) A notice under subsection 1 shall inform the applicant or registrant that he is entitled to a hearing by the Board, if he mails or delivers to the Superintendent and the Board within fifteen days after the notice under subsection 1 is served on him, notice in writing requiring a hearing, and he may so require such a hearing.

Powers of Superintendent where no hearing

(3) Where an applicant or registrant does not require a hearing by the Board in accordance with subsection 2, the Superintendent may carry out the proposal stated in his notice under subsection 1.

Powers of Board

(4) Where an applicant or registrant requires a hearing by the Board in accordance with subsection 2, the Board shall appoint a time for and hold the hearing and, on the application of the Superintendent at the hearing, may by order direct the Superintendent to carry out his proposal or refrain from carrying out his proposal and to take such action as the Board considers the Superintendent ought to take in accordance with this Act and the regulations, and for such purposes the Board may substitute its opinion for that of the Superintendent.

Conditions of order

(5) The Board may attach such terms and conditions to its order or to the registration as it considers proper to give effect to the purposes of this Act.

Parties

(6) The Superintendent, the applicant or registrant who has required the hearing and such other persons as the Board may specify are parties to the proceedings before the Board under this section.

Oral evidence

(7) The oral evidence taken before the Board at a hearing shall be recorded and, if so required, copies or a transcript thereof shall be furnished upon the same terms as in the Supreme Court.

Voluntary cancellation

(8) Notwithstanding subsection 1, the Superintendent may cancel a registration upon the request in writing of the registrant in the prescribed form surrendering his certificate of registration.

Continuance pending renewal

(9) Where, before expiry of his registration, a registrant has applied for renewal of his registration and paid the prescribed fee, his registration shall be deemed to continue,

(*a*) until the renewal is granted; or

(*b*) where he is served with notice that the Superintendent proposes to refuse to grant the renewal, until the time for giving notice requiring a hearing has expired and, where a hearing is required, until the Board has made its order.

Extension of time

9. The Board may extend the time for requiring a hearing under section 8, either before or after expiration of the time fixed therein, where it is satisfied that there are *prima facie* grounds for granting relief to the applicant or registrant pursuant to a hearing and that there are reasonable grounds for applying for the extension and may give such directions as it considers proper consequent upon the extension.

10. Notwithstanding subsection 9 of section 8, the Superintendent, by notice to a registrant and without a hearing, may provisionally refuse renewal of or suspend registration of the registrant where in the Superintendent's opinion it is necessary to do so for the immediate protection of the interests of the students of the private vocational school and the Superintendent so states in such notice giving his reasons therefor, and thereafter the provisions of section 8 apply as if the notice given under this section were a notice of a proposal to revoke the registration under subsection 1 of section 8. **Provisional suspension**

11. A further application for registration may be made upon new or other evidence or where it is clear that material circumstances have changed. **Further applications**

12.—(1) Any party to a hearing before the Board may appeal from the decision of the Board to the Supreme Court in accordance with the rules of court. **Appeal to court**

(2) The Minister is entitled to be heard, by counsel or otherwise, upon the argument of an appeal under this section. **Minister entitled to be heard**

(3) The chairman of the Board shall certify to the Registrar of the Supreme Court the record of the proceedings before the Board which, together with a transcript of the evidence before the Board if it is not part of the Board's record, shall constitute the record in the appeal. **Record to be filed in court**

(4) The Supreme Court may confirm or alter the decision of the Board or direct the Superintendent to do any act he is authorized to do under this Act and as the court considers proper and the court may substitute its opinion for that of the Superintendent or the Board. **Powers of court on appeal**

(5) Notwithstanding that an applicant or registrant has appealed under this section from a decision of the Board, unless the Board, or the Supreme Court upon an application, otherwise directs, the decision of the Board is effective until the appeal is disposed of. **Effect of decision of Board pending disposal of appeal**

13. Every private vocational school shall, within five days after the event, notify the Superintendent in writing of, **Notice of material changes**

(*a*) any change in its address for service;

(*b*) any change in the officers or directors in the case of a corporation or of the members in the case of a partnership.

Inspection

14.—(1) The Superintendent, or any person authorized by him in writing, may inspect any private vocational school at any reasonable time to examine the operation thereof, to observe the method of instruction given therein or to inspect the books, records or other documents relating to the operation of the private vocational school including the inspection of any circulars, pamphlets or other material used for advertising the private vocational school.

Obstruction of inspector

(2) No person shall obstruct the Superintendent or a person authorized to make an inspection under subsection 1 or withhold from such a person or conceal or destroy any books, papers, documents or things relevant to the subject-matter of the inspection.

Goods or services of students not to be sold

15. No person who owns or operates a private vocational school shall sell or permit to be sold to the public, the goods or services of any student of the school.

Court proceedings

16. No person who owns or operates a private vocational school which is not registered under this Act is capable of maintaining an action or other proceeding in any court in Ontario in respect of any contract made in whole or in part within Ontario, or against any person domiciled in Ontario, in the course of or in connection with the conduct or operation of the private vocational school.

Service

17.—(1) Any notice or order required to be given, delivered or served under this Act or the regulations is sufficiently given, delivered or served if delivered personally or sent by registered mail addressed to the person to whom delivery or service is required to be made at his last-known address.

Idem

(2) Where service is made by registered mail, the service shall be deemed to be made on the third day after the day of mailing unless the person on whom service is being made establishes that he did not, acting in good faith, through absence, accident, illness or other cause beyond his control receive the notice or order until a later date.

Offences

18.—(1) Every person who,

(*a*) knowingly, furnishes false information in any application under this Act or in any statement or return required to be furnished under this Act or the regulations;

(*b*) fails to comply with any order, direction or other requirement made under this Act; or

(*c*) contravenes any provision of this Act or the regulations,

and every director or officer of a corporation who knowingly concurs in such furnishing, failure or contravention is guilty of an offence and on summary conviction is liable to a fine of not more than $1,000 or to imprisonment for a term of not more than one year, or to both.

Corporations

(2) Where a corporation is convicted of an offence under subsection 1, the maximum penalty that may be imposed upon the corporation is $25,000 and not as provided therein.

Limitation

(3) No proceeding under clause *a* of subsection 1 shall be commenced more than one year after the facts upon which the proceeding is based first came to the knowledge of the Superintendent.

Idem

(4) No proceeding under clause *b* or *c* of subsection 1 shall be commenced more than two years after the time when the subject-matter of the proceeding arose.

Certificate as evidence

19.—(1) A statement as to,

(*a*) the registration or non-registration of any person;

(*b*) the filing or non-filing of any document or material required or permitted to be filed with the Superintendent;

(*c*) the time when the facts upon which proceedings are based first came to the knowledge of the Superintendent;

(*d*) any other matter pertaining to such registration, non-registration, filing or non-filing,

purporting to be certified by the Superintendent is, without proof of the office or signature of the Superintendent, receivable in evidence as *prima facie* proof of the facts stated therein for all purposes in any action, proceeding or prosecution.

Proof of Minister's signature

(2) Any document under this Act purporting to be signed by the Minister, or any certified copy thereof, is receivable in evidence in any action, prosecution or other proceeding as *prima facie* proof that the document is signed by the Minister without proof of the office or signature of the Minister.

Regulations

20.—(1) The Lieutenant Governor in Council may make regulations,

(*a*) prescribing vocations to which this Act and the regulations apply;

(*b*) exempting any vocation or class of private vocational school from this Act or the regulations or any provision thereof;

(*c*) governing applications for registration or renewal of registration and prescribing terms and conditions of registration;

(*d*) requiring the payment of fees on application for registration or renewal of registration, and prescribing the amounts thereof;

(*e*) requiring registered private vocational schools to be bonded in such form and terms and with such collateral security as are prescribed, and providing for the forfeiture of bonds and the disposition of the proceeds;

(*f*) prescribing further procedures respecting the conduct of matters coming before the Board;

(*g*) requiring and governing the books, accounts and records relating to the due compliance with the provisions of this Act that shall be kept by private vocational schools;

(*h*) requiring private vocational schools to make returns and furnish information to the Superintendent;

(*i*) requiring any information required to be furnished or contained in any form or return to be verified by affidavit;

(*j*) prescribing the accommodation and equipment required by private vocational schools and the means of instruction to be used;

(*k*) requiring the approval of the Superintendent for courses of study, requirements for admission, qualifications of teachers, methods of instruction, and premises and equipment used, in connection with a private vocational school;

(*l*) prescribing the minimum number of hours of instruction in any vocation that shall constitute a course of instruction in that vocation;

(*m*) prescribing the maximum fees that shall be paid or received for a course of instruction in a vocation;

(*n*) prescribing the terms and conditions upon which money paid for or on account of instruction in a private vocational school shall be either retained by the payee or be repayable to the payer;

(*o*) prohibiting the use of any advertising relating to a private vocational school that may tend to mislead, and requiring the discontinuance of any specified advertisement or means of advertisement by the owner of a private vocational school;

(*p*) regulating the selling or offering for sale of any course of instruction offered by a private vocational school;

(*q*) prescribing the amount that may be charged for the material used by or the services supplied to any student of the private vocational school;

(*r*) providing that no certificate or other document as to the competency of any student shall be issued by a private vocational school unless the student has submitted himself to such examination as may be prescribed by the regulations, and prescribing fees for such examination and certificate;

(*s*) prescribing the nature of any examinations for certificates of competency, the manner, times and places of holding such examinations, and the persons who shall sit as examiners;

(*t*) governing the conduct, operation and management of private vocational schools; and

(*u*) prescribing forms and providing for their use.

(2) A regulation may adopt by reference, in whole or in part, with such changes as the Lieutenant Governor in Council considers necessary, any publication and may require compliance with any publication that is so adopted. **Adoption by reference**

21. The following are repealed: **Repeals**

1. *The Trade Schools Regulation Act*, being chapter 466 of the Revised Statutes of Ontario, 1970.

2. Section 18 of *The Government Reorganization Act, 1972*, being chapter 1.

Commencement

22. This Act comes into force on the 1st day of January, 1975.

Short title

23. This Act may be cited as *The Private Vocational Schools Act, 1974*.

An Act to provide for the Regulation
of Private Vocational Schools

1st Reading

May 30th, 1974

2nd Reading

3rd Reading

THE HON. J. A. C. AULD
Minister of Colleges and Universities

(*Government Bill*)

1974

BILL 73 **Government Bill**

4TH SESSION, 29TH LEGISLATURE, ONTARIO
23 ELIZABETH II, 1974

An Act to provide for the Regulation of Private Vocational Schools

THE HON. J. A. C. AULD
Minister of Colleges and Universities

(Reprinted as amended by the Committee of the Whole House)

TORONTO
PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO

Explanatory Note

The purpose of the Bill is to provide an up to date registration system for private vocational schools to replace *The Trade Schools Regulation Act*.

The Bill will safeguard both the rights of the persons operating the schools and the persons using the schools. To this end a Private Vocational School Review Board is established to conduct hearings under the Act.

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(*a*) "Board" means the Private Vocational School Review Board established under this Act;

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2.—(1) There shall be a Superintendent of private vocational schools who shall be appointed by the Lieutenant Governor in Council. Superintendent

(2) The Superintendent may exercise the powers and shall perform the duties conferred or imposed upon him by or under this Act. Duties

Board established

3.—(1) A board to be known as the "Private Vocational School Review Board" is hereby established and shall consist of not fewer than three persons appointed by the Lieutenant Governor in Council.

Term of Office

(2) No member of the Board shall hold office for more than five consecutive years.

Chairman

(3) The Lieutenant Governor in Council may designate one of the members of the Board as chairman and another of the members as vice-chairman.

Quorum

(4) A majority of the members of the Board constitutes a quorum.

Expenditures

4. The expenditures necessary for the purposes of the Board shall be payable for the fiscal year ending the 31st day of March, 1975 out of the Consolidated Revenue Fund and thereafter out of moneys appropriated therefor by the Legislature.

Registration required

5.—(1) No person shall conduct or operate a private vocational school unless he is registered by the Superintendent under this Act.

Expiration of registration

(2) Every registration under this Act expires on the 31st day of December of the year in respect of which the registration is effected.

Registration of private vocational schools

6.—(1) An applicant is entitled to registration or renewal of registration by the Superintendent to conduct or operate a private vocational school and to be issued a certificate of registration except where,

(*a*) having regard to his financial position, the applicant cannot reasonably be expected to be financially responsible in the conduct of the private vocational school; or

(*b*) the past conduct of the applicant affords reasonable grounds for belief that he will not carry on the private vocational school in accordance with law and with integrity and honesty; or

(*c*) the applicant is a corporation and,

(i) having regard to its financial position, it cannot reasonably be expected to be financially responsible in the conduct of the private vocational school, or

(ii) the past conduct of its officers or directors affords reasonable grounds for belief that the private vocational school will not be carried on in accordance with law and with integrity and honesty; or

(*d*) it can reasonably be expected that the course or courses of study or the method of training offered by the private vocational school will not provide the skill and knowledge requisite for employment in the vocation or vocations for which the applicant is offering instruction; or

(*e*) the applicant is carrying on activities that are, or will be, if the applicant is registered, in contravention of this Act or the regulations.

Conditions of registration

(2) A registration is subject to such terms and conditions to give effect to the purposes of this Act as are imposed by the Board or prescribed by the regulations.

Registration not transferable

(3) A registration is not transferable.

Refusal to register

7.—(1) Subject to section 8, the Superintendent may refuse to register an applicant where in the Superintendent's opinion the applicant is disentitled to registration under section 6.

Revocation and refusal to renew

(2) Subject to section 8, the Superintendent may refuse to renew or may suspend or revoke a registration for any reason that would disentitle the registrant to registration under section 6 if he were an applicant, or where the registrant is in breach of a term or condition of the registration.

Notice of proposal to refuse or revoke

8.—(1) Where the Superintendent proposes to refuse to grant or renew a registration or proposes to suspend or revoke a registration, he shall serve notice of his proposal, together with written reasons therefor, on the applicant or registrant.

Notice requiring hearing

(2) A notice under subsection 1 shall inform the applicant or registrant that he is entitled to a hearing by the Board, if he mails or delivers to the Superintendent and the Board within fifteen days after the notice under subsection 1 is served on him, notice in writing requiring a hearing, and he may so require such a hearing.

Powers of Superintendent where no hearing

(3) Where an applicant or registrant does not require a hearing by the Board in accordance with subsection 2, the Superintendent may carry out the proposal stated in his notice under subsection 1.

Powers of Board

(4) Where an applicant or registrant requires a hearing by the Board in accordance with subsection 2, the Board shall appoint a time for and hold the hearing and, on the application of the Superintendent at the hearing, may by order direct the Superintendent to carry out his proposal or refrain from carrying out his proposal and to take such action as the Board considers the Superintendent ought to take in accordance with this Act and the regulations, and for such purposes the Board may substitute its opinion for that of the Superintendent.

Conditions of order

(5) The Board may attach such terms and conditions to its order or to the registration as it considers proper to give effect to the purposes of this Act.

Parties

(6) The Superintendent, the applicant or registrant who has required the hearing and such other persons as the Board may specify are parties to the proceedings before the Board under this section.

Oral evidence

(7) The oral evidence taken before the Board at a hearing shall be recorded and, if so required, copies or a transcript thereof shall be furnished upon the same terms as in the Supreme Court.

Voluntary cancellation

(8) Notwithstanding subsection 1, the Superintendent may cancel a registration upon the request in writing of the registrant in the prescribed form surrendering his certificate of registration.

Continuance pending renewal

(9) Where, before expiry of his registration, a registrant has applied for renewal of his registration and paid the prescribed fee, his registration shall be deemed to continue,

(*a*) until the renewal is granted; or

(*b*) where he is served with notice that the Superintendent proposes to refuse to grant the renewal, until the time for giving notice requiring a hearing has expired and, where a hearing is required, until the Board has made its order.

Extension of time

9. The Board may extend the time for requiring a hearing under section 8, either before or after expiration of the time fixed therein, where it is satisfied that there are *prima facie* grounds for granting relief to the applicant or registrant pursuant to a hearing and that there are reasonable grounds for applying for the extension and may give such directions as it considers proper consequent upon the extension.

10. Notwithstanding subsection 9 of section 8, the Superintendent, by notice to a registrant and without a hearing, may provisionally refuse renewal of or suspend registration of the registrant where in the Superintendent's opinion it is necessary to do so for the immediate protection of the interests of the students of the private vocational school and the Superintendent so states in such notice giving his reasons therefor, and thereafter the provisions of section 8 apply as if the notice given under this section were a notice of a proposal to revoke the registration under subsection 1 of section 8. Provisional suspension

11. A further application for registration may be made upon new or other evidence or where it is clear that material circumstances have changed. Further applications

12.—(1) Any party to a hearing before the Board may appeal from the decision of the Board to the Supreme Court in accordance with the rules of court. Appeal to court

(2) The Minister is entitled to be heard, by counsel or otherwise, upon the argument of an appeal under this section. Minister entitled to be heard

(3) The chairman of the Board shall certify to the Registrar of the Supreme Court the record of the proceedings before the Board which, together with a transcript of the evidence before the Board if it is not part of the Board's record, shall constitute the record in the appeal. Record to be filed in court

(4) The Supreme Court may confirm or alter the decision of the Board or direct the Superintendent to do any act he is authorized to do under this Act and as the court considers proper and the court may substitute its opinion for that of the Superintendent or the Board. Powers of court on appeal

(5) Notwithstanding that an applicant or registrant has appealed under this section from a decision of the Board, unless the Board, or the Supreme Court upon an application, otherwise directs, the decision of the Board is effective until the appeal is disposed of. Effect of decision of Board pending disposal of appeal

13. Every private vocational school shall, within five days after the event, notify the Superintendent in writing of, Notice of material changes

(*a*) any change in its address for service;

(*b*) any change in the officers or directors in the case of a corporation or of the members in the case of a partnership.

Inspection

14.—(1) The Superintendent, or any person authorized by him in writing, may inspect any private vocational school at any reasonable time to examine the operation thereof, to observe the method of instruction given therein or to inspect the books, records or other documents relating to the operation of the private vocational school including the inspection of any circulars, pamphlets or other material used for advertising the private vocational school.

Obstruction of inspector

(2) No person shall obstruct the Superintendent or a person authorized to make an inspection under subsection 1 or withhold from such a person or conceal or destroy any books, papers, documents or things relevant to the subject-matter of the inspection.

Goods or services of students not to be sold

15. No person who owns or operates a private vocational school shall sell or permit to be sold to the public, the goods or services of any student of the school.

Court proceedings

16. No person who owns or operates a private vocational school which is not registered under this Act is capable of maintaining an action or other proceeding in any court in Ontario in respect of any contract made in whole or in part within Ontario, or against any person domiciled in Ontario, in the course of or in connection with the conduct or operation of the private vocational school.

Service

17.—(1) Any notice or order required to be given, delivered or served under this Act or the regulations is sufficiently given, delivered or served if delivered personally or sent by registered mail addressed to the person to whom delivery or service is required to be made at his last-known address.

Idem

(2) Where service is made by registered mail, the service shall be deemed to be made on the third day after the day of mailing unless the person on whom service is being made establishes that he did not, acting in good faith, through absence, accident, illness or other cause beyond his control receive the notice or order until a later date.

Offences

18.—(1) Every person who,

(*a*) knowingly, furnishes false information in any application under this Act or in any statement or return required to be furnished under this Act or the regulations;

(*b*) fails to comply with any order, direction or other requirement made under this Act; or

(*c*) contravenes any provision of this Act or the regulations,

and every director or officer of a corporation who knowingly concurs in such furnishing, failure or contravention is guilty of an offence and on summary conviction is liable to a fine of not more than $1,000 or to imprisonment for a term of not more than one year, or to both.

Corporations

(2) Where a corporation is convicted of an offence under subsection 1, the maximum penalty that may be imposed upon the corporation is $25,000 and not as provided therein.

Limitation

(3) No proceeding under clause *a* of subsection 1 shall be commenced more than one year after the facts upon which the proceeding is based first came to the knowledge of the Superintendent.

Idem

(4) No proceeding under clause *b* or *c* of subsection 1 shall be commenced more than two years after the time when the subject-matter of the proceeding arose.

Rescission of contract

(5) Any person who enters into a written contract with a private vocational school in respect of a course or courses of instruction may rescind the contract by delivering a notice personally or by registered mail addressed to the private vocational school at the address shown in the contract within two days after the duplicate original copy of the contract first comes into the possession of the person and, where the contract is rescinded, the person shall immediately return any goods received under the contract and the private vocational school shall return any moneys received or realized in respect of the contract.

Certificate as evidence

19.—(1) A statement as to,

(*a*) the registration or non-registration of any person;

(*b*) the filing or non-filing of any document or material required or permitted to be filed with the Superintendent;

(*c*) the time when the facts upon which proceedings are based first came to the knowledge of the Superintendent;

(*d*) any other matter pertaining to such registration, non-registration, filing or non-filing,

purporting to be certified by the Superintendent is, without proof of the office or signature of the Superintendent, receiv-

able in evidence as *prima facie* proof of the facts stated therein for all purposes in any action, proceeding or prosecution.

Proof of Minister's signature

(2) Any document under this Act purporting to be signed by the Minister, or any certified copy thereof, is receivable in evidence in any action, prosecution or other proceeding as *prima facie* proof that the document is signed by the Minister without proof of the office or signature of the Minister.

Regulations

20.—(1) The Lieutenant Governor in Council may make regulations,

(*a*) prescribing vocations to which this Act and the regulations apply;

(*b*) exempting any vocation or class of private vocational school from this Act or the regulations or any provision thereof;

(*c*) governing applications for registration or renewal of registration and prescribing terms and conditions of registration;

(*d*) requiring the payment of fees on application for registration or renewal of registration, and prescribing the amounts thereof;

(*e*) requiring registered private vocational schools to be bonded in such form and terms and with such collateral security as are prescribed, and providing for the forfeiture of bonds and the disposition of the proceeds;

(*f*) prescribing further procedures respecting the conduct of matters coming before the Board;

(*g*) requiring and governing the books, accounts and records relating to the due compliance with the provisions of this Act that shall be kept by private vocational schools;

(*h*) requiring private vocational schools to make returns and furnish information to the Superintendent;

(*i*) requiring any information required to be furnished or contained in any form or return to be verified by affidavit;

(*j*) prescribing the accommodation and equipment required by private vocational schools and the means of instruction to be used;

(*k*) requiring the approval of the Superintendent for courses of study, requirements for admission, qualifications of teachers, methods of instruction, and premises and equipment used, in connection with a private vocational school;

(*l*) prescribing the minimum number of hours of instruction in any vocation that shall constitute a course of instruction in that vocation;

(*m*) prescribing the maximum fees that shall be paid or received for a course of instruction in a vocation;

(*n*) prescribing the terms and conditions upon which money paid for or on account of instruction in a private vocational school shall be either retained by the payee or be repayable to the payer;

(*o*) prohibiting the use of any advertising relating to a private vocational school that may tend to mislead, and requiring the discontinuance of any specified advertisement or means of advertisement by the owner of a private vocational school;

(*p*) regulating the selling or offering for sale of any course of instruction offered by a private vocational school;

(*q*) prescribing the amount that may be charged for the material used by or the services supplied to any student of the private vocational school;

(*r*) providing that no certificate or other document as to the competency of any student shall be issued by a private vocational school unless the student has submitted himself to such examination as may be prescribed by the regulations, and prescribing fees for such examination and certificate;

(*s*) prescribing the nature of any examinations for certificates of competency, the manner, times and places of holding such examinations, and the persons who shall sit as examiners;

(*t*) governing the conduct, operation and management of private vocational schools; and

(*u*) prescribing forms and providing for their use.

Adoption by reference

(2) A regulation may adopt by reference, in whole or in part, with such changes as the Lieutenant Governor in Council considers necessary, any publication and may require compliance with any publication that is so adopted.

Repeals

21. The following are repealed:

1. *The Trade Schools Regulation Act*, being chapter 466 of the Revised Statutes of Ontario, 1970.

2. Section 18 of *The Government Reorganization Act, 1972*, being chapter 1.

Commencement

22. This Act comes into force on the 1st day of January, 1975.

Short title

23. This Act may be cited as *The Private Vocational Schools Act, 1974*.

An Act to provide for the Regulation of Private Vocational Schools

1st Reading

May 30th, 1974

2nd Reading

June 13th, 1974

3rd Reading

THE HON. J. A. C. AULD
Minister of Colleges and Universities

(Reprinted as amended by the Committee of the Whole House)

1974

BILL 73

4TH SESSION, 29TH LEGISLATURE, ONTARIO
23 ELIZABETH II, 1974

An Act to provide for the Regulation of Private Vocational Schools

THE HON. J. A. C. AULD
Minister of Colleges and Universities

TORONTO
PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO

BILL 73 **1974**

An Act to provide for the Regulation of Private Vocational Schools

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. In this Act, Interpretation

(*a*) "Board" means the Private Vocational School Review Board established under this Act;

(*b*) "Minister" means the Minister of Colleges and Universities;

(*c*) "private vocational school" means a school or place at which instruction in any vocation is offered or provided by class room instruction or by correspondence, other than a college of applied arts and technology, a university recognized by the Ministry of Colleges and Universities or a school or course of instruction maintained under any other Act of the Legislature;

(*d*) "regulations" means the regulations made under this Act;

(*e*) "Superintendent" means the Superintendent of private vocational schools appointed under this Act;

(*f*) "vocation" means the skill and knowledge requisite for employment in any vocation prescribed by the regulations.

2.—(1) There shall be a Superintendent of private vocational schools who shall be appointed by the Lieutenant Governor in Council. Superintendent

(2) The Superintendent may exercise the powers and shall perform the duties conferred or imposed upon him by or under this Act. Duties

Board established

3.—(1) A board to be known as the "Private Vocational School Review Board" is hereby established and shall consist of not fewer than three persons appointed by the Lieutenant Governor in Council.

Term of Office

(2) No member of the Board shall hold office for more than five consecutive years.

Chairman

(3) The Lieutenant Governor in Council may designate one of the members of the Board as chairman and another of the members as vice-chairman.

Quorum

(4) A majority of the members of the Board constitutes a quorum.

Expenditures

4. The expenditures necessary for the purposes of the Board shall be payable for the fiscal year ending the 31st day of March, 1975 out of the Consolidated Revenue Fund and thereafter out of moneys appropriated therefor by the Legislature.

Registration required

5.—(1) No person shall conduct or operate a private vocational school unless he is registered by the Superintendent under this Act.

Expiration of registration

(2) Every registration under this Act expires on the 31st day of December of the year in respect of which the registration is effected.

Registration of private vocational schools

6.—(1) An applicant is entitled to registration or renewal of registration by the Superintendent to conduct or operate a private vocational school and to be issued a certificate of registration except where,

(*a*) having regard to his financial position, the applicant cannot reasonably be expected to be financially responsible in the conduct of the private vocational school; or

(*b*) the past conduct of the applicant affords reasonable grounds for belief that he will not carry on the private vocational school in accordance with law and with integrity and honesty; or

(*c*) the applicant is a corporation and,

(i) having regard to its financial position, it cannot reasonably be expected to be financially responsible in the conduct of the private vocational school, or

(ii) the past conduct of its officers or directors affords reasonable grounds for belief that the private vocational school will not be carried on in accordance with law and with integrity and honesty; or

(*d*) it can reasonably be expected that the course or courses of study or the method of training offered by the private vocational school will not provide the skill and knowledge requisite for employment in the vocation or vocations for which the applicant is offering instruction; or

(*e*) the applicant is carrying on activities that are, or will be, if the applicant is registered, in contravention of this Act or the regulations.

Conditions of registration

(2) A registration is subject to such terms and conditions to give effect to the purposes of this Act as are imposed by the Board or prescribed by the regulations.

Registration not transferable

(3) A registration is not transferable.

Refusal to register

7.—(1) Subject to section 8, the Superintendent may refuse to register an applicant where in the Superintendent's opinion the applicant is disentitled to registration under section 6.

Revocation and refusal to renew

(2) Subject to section 8, the Superintendent may refuse to renew or may suspend or revoke a registration for any reason that would disentitle the registrant to registration under section 6 if he were an applicant, or where the registrant is in breach of a term or condition of the registration.

Notice of proposal to refuse or revoke

8.—(1) Where the Superintendent proposes to refuse to grant or renew a registration or proposes to suspend or revoke a registration, he shall serve notice of his proposal, together with written reasons therefor, on the applicant or registrant.

Notice requiring hearing

(2) A notice under subsection 1 shall inform the applicant or registrant that he is entitled to a hearing by the Board, if he mails or delivers to the Superintendent and the Board within fifteen days after the notice under subsection 1 is served on him, notice in writing requiring a hearing, and he may so require such a hearing.

Powers of Superintendent where no hearing

(3) Where an applicant or registrant does not require a hearing by the Board in accordance with subsection 2, the Superintendent may carry out the proposal stated in his notice under subsection 1.

Powers of Board

(4) Where an applicant or registrant requires a hearing by the Board in accordance with subsection 2, the Board shall appoint a time for and hold the hearing and, on the application of the Superintendent at the hearing, may by order direct the Superintendent to carry out his proposal or refrain from carrying out his proposal and to take such action as the Board considers the Superintendent ought to take in accordance with this Act and the regulations, and for such purposes the Board may substitute its opinion for that of the Superintendent.

Conditions of order

(5) The Board may attach such terms and conditions to its order or to the registration as it considers proper to give effect to the purposes of this Act.

Parties

(6) The Superintendent, the applicant or registrant who has required the hearing and such other persons as the Board may specify are parties to the proceedings before the Board under this section.

Oral evidence

(7) The oral evidence taken before the Board at a hearing shall be recorded and, if so required, copies or a transcript thereof shall be furnished upon the same terms as in the Supreme Court.

Voluntary cancellation

(8) Notwithstanding subsection 1, the Superintendent may cancel a registration upon the request in writing of the registrant in the prescribed form surrendering his certificate of registration.

Continuance pending renewal

(9) Where, before expiry of his registration, a registrant has applied for renewal of his registration and paid the prescribed fee, his registration shall be deemed to continue,

(*a*) until the renewal is granted; or

(*b*) where he is served with notice that the Superintendent proposes to refuse to grant the renewal, until the time for giving notice requiring a hearing has expired and, where a hearing is required, until the Board has made its order.

Extension of time

9. The Board may extend the time for requiring a hearing under section 8, either before or after expiration of the time fixed therein, where it is satisfied that there are *prima facie* grounds for granting relief to the applicant or registrant pursuant to a hearing and that there are reasonable grounds for applying for the extension and may give such directions as it considers proper consequent upon the extension.

10. Notwithstanding subsection 9 of section 8, the Superintendent, by notice to a registrant and without a hearing, may provisionally refuse renewal of or suspend registration of the registrant where in the Superintendent's opinion it is necessary to do so for the immediate protection of the interests of the students of the private vocational school and the Superintendent so states in such notice giving his reasons therefor, and thereafter the provisions of section 8 apply as if the notice given under this section were a notice of a proposal to revoke the registration under subsection 1 of section 8. Provisional suspension

11. A further application for registration may be made upon new or other evidence or where it is clear that material circumstances have changed. Further applications

12.—(1) Any party to a hearing before the Board may appeal from the decision of the Board to the Supreme Court in accordance with the rules of court. Appeal to court

(2) The Minister is entitled to be heard, by counsel or otherwise, upon the argument of an appeal under this section. Minister entitled to be heard

(3) The chairman of the Board shall certify to the Registrar of the Supreme Court the record of the proceedings before the Board which, together with a transcript of the evidence before the Board if it is not part of the Board's record, shall constitute the record in the appeal. Record to be filed in court

(4) The Supreme Court may confirm or alter the decision of the Board or direct the Superintendent to do any act he is authorized to do under this Act and as the court considers proper and the court may substitute its opinion for that of the Superintendent or the Board. Powers of court on appeal

(5) Notwithstanding that an applicant or registrant has appealed under this section from a decision of the Board, unless the Board, or the Supreme Court upon an application, otherwise directs, the decision of the Board is effective until the appeal is disposed of. Effect of decision of Board pending disposal of appeal

13. Every private vocational school shall, within five days after the event, notify the Superintendent in writing of, Notice of material changes

(*a*) any change in its address for service;

(*b*) any change in the officers or directors in the case of a corporation or of the members in the case of a partnership.

Inspection

14.—(1) The Superintendent, or any person authorized by him in writing, may inspect any private vocational school at any reasonable time to examine the operation thereof, to observe the method of instruction given therein or to inspect the books, records or other documents relating to the operation of the private vocational school including the inspection of any circulars, pamphlets or other material used for advertising the private vocational school.

Obstruction of inspector

(2) No person shall obstruct the Superintendent or a person authorized to make an inspection under subsection 1 or withhold from such a person or conceal or destroy any books, papers, documents or things relevant to the subject-matter of the inspection.

Goods or services of students not to be sold

15. No person who owns or operates a private vocational school shall sell or permit to be sold to the public, the goods or services of any student of the school.

Court proceedings

16. No person who owns or operates a private vocational school which is not registered under this Act is capable of maintaining an action or other proceeding in any court in Ontario in respect of any contract made in whole or in part within Ontario, or against any person domiciled in Ontario, in the course of or in connection with the conduct or operation of the private vocational school.

Service

17.—(1) Any notice or order required to be given, delivered or served under this Act or the regulations is sufficiently given, delivered or served if delivered personally or sent by registered mail addressed to the person to whom delivery or service is required to be made at his last-known address.

Idem

(2) Where service is made by registered mail, the service shall be deemed to be made on the third day after the day of mailing unless the person on whom service is being made establishes that he did not, acting in good faith, through absence, accident, illness or other cause beyond his control receive the notice or order until a later date.

Offences

18.—(1) Every person who,

(*a*) knowingly, furnishes false information in any application under this Act or in any statement or return required to be furnished under this Act or the regulations;

(*b*) fails to comply with any order, direction or other requirement made under this Act; or

(*c*) contravenes any provision of this Act or the regulations,

and every director or officer of a corporation who knowingly concurs in such furnishing, failure or contravention is guilty of an offence and on summary conviction is liable to a fine of not more than $1,000 or to imprisonment for a term of not more than one year, or to both.

Corporations

(2) Where a corporation is convicted of an offence under subsection 1, the maximum penalty that may be imposed upon the corporation is $25,000 and not as provided therein.

Limitation

(3) No proceeding under clause *a* of subsection 1 shall be commenced more than one year after the facts upon which the proceeding is based first came to the knowledge of the Superintendent.

Idem

(4) No proceeding under clause *b* or *c* of subsection 1 shall be commenced more than two years after the time when the subject-matter of the proceeding arose.

Rescission of contract

(5) Any person who enters into a written contract with a private vocational school in respect of a course or courses of instruction may rescind the contract by delivering a notice personally or by registered mail addressed to the private vocational school at the address shown in the contract within two days after the duplicate original copy of the contract first comes into the possession of the person and, where the contract is rescinded, the person shall immediately return any goods received under the contract and the private vocational school shall return any moneys received or realized in respect of the contract.

Certificate as evidence

19.—(1) A statement as to,

(*a*) the registration or non-registration of any person;

(*b*) the filing or non-filing of any document or material required or permitted to be filed with the Superintendent;

(*c*) the time when the facts upon which proceedings are based first came to the knowledge of the Superintendent;

(*d*) any other matter pertaining to such registration, non-registration, filing or non-filing,

purporting to be certified by the Superintendent is, without proof of the office or signature of the Superintendent, receiv-

able in evidence as *prima facie* proof of the facts stated therein for all purposes in any action, proceeding or prosecution.

Proof of Minister's signature

(2) Any document under this Act purporting to be signed by the Minister, or any certified copy thereof, is receivable in evidence in any action, prosecution or other proceeding as *prima facie* proof that the document is signed by the Minister without proof of the office or signature of the Minister.

Regulations

20.—(1) The Lieutenant Governor in Council may make regulations,

(*a*) prescribing vocations to which this Act and the regulations apply;

(*b*) exempting any vocation or class of private vocational school from this Act or the regulations or any provision thereof;

(*c*) governing applications for registration or renewal of registration and prescribing terms and conditions of registration;

(*d*) requiring the payment of fees on application for registration or renewal of registration, and prescribing the amounts thereof;

(*e*) requiring registered private vocational schools to be bonded in such form and terms and with such collateral security as are prescribed, and providing for the forfeiture of bonds and the disposition of the proceeds;

(*f*) prescribing further procedures respecting the conduct of matters coming before the Board;

(*g*) requiring and governing the books, accounts and records relating to the due compliance with the provisions of this Act that shall be kept by private vocational schools;

(*h*) requiring private vocational schools to make returns and furnish information to the Superintendent;

(*i*) requiring any information required to be furnished or contained in any form or return to be verified by affidavit;

(*j*) prescribing the accommodation and equipment required by private vocational schools and the means of instruction to be used;

(*k*) requiring the approval of the Superintendent for courses of study, requirements for admission, qualifications of teachers, methods of instruction, and premises and equipment used, in connection with a private vocational school;

(*l*) prescribing the minimum number of hours of instruction in any vocation that shall constitute a course of instruction in that vocation;

(*m*) prescribing the maximum fees that shall be paid or received for a course of instruction in a vocation;

(*n*) prescribing the terms and conditions upon which money paid for or on account of instruction in a private vocational school shall be either retained by the payee or be repayable to the payer;

(*o*) prohibiting the use of any advertising relating to a private vocational school that may tend to mislead, and requiring the discontinuance of any specified advertisement or means of advertisement by the owner of a private vocational school;

(*p*) regulating the selling or offering for sale of any course of instruction offered by a private vocational school;

(*q*) prescribing the amount that may be charged for the material used by or the services supplied to any student of the private vocational school;

(*r*) providing that no certificate or other document as to the competency of any student shall be issued by a private vocational school unless the student has submitted himself to such examination as may be prescribed by the regulations, and prescribing fees for such examination and certificate;

(*s*) prescribing the nature of any examinations for certificates of competency, the manner, times and places of holding such examinations, and the persons who shall sit as examiners;

(*t*) governing the conduct, operation and management of private vocational schools; and

(*u*) prescribing forms and providing for their use.

Adoption by reference

(2) A regulation may adopt by reference, in whole or in part, with such changes as the Lieutenant Governor in Council considers necessary, any publication and may require compliance with any publication that is so adopted.

Repeals

21. The following are repealed:

1. *The Trade Schools Regulation Act*, being chapter 466 of the Revised Statutes of Ontario, 1970.

2. Section 18 of *The Government Reorganization Act, 1972*, being chapter 1.

Commencement

22. This Act comes into force on the 1st day of January, 1975.

Short title

23. This Act may be cited as *The Private Vocational Schools Act, 1974*.

An Act to provide for the Regulation
of Private Vocational Schools

1st Reading

May 30th, 1974

2nd Reading

June 13th, 1974

3rd Reading

June 28th, 1974

THE HON. J. A. C. AULD
Minister of Colleges and Universities

1974

BILL 74 **Private Member's Bill**

4TH SESSION, 29TH LEGISLATURE, ONTARIO
23 ELIZABETH II, 1974

An Act respecting Provincial Trails

MR. DEACON

TORONTO
PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO

Explanatory Note

The Bill establishes provincial trails for the public's use, education and enjoyment.

BILL 74 **1974**

An Act respecting Provincial Trails

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. In this Act, Interpretation

(*a*) "Council" means the Trail Advisory Council;

(*b*) "Minister" means the Minister of Natural Resources;

(*c*) "public lands" means lands belonging to Her Majesty in right of Ontario, whether or not covered with water;

(*d*) "regulations" means the regulations made under this Act.

2. The Minister is responsible for the administration of this Act. Administration of Act

3. The provincial trails are hereby dedicated to and declared to be held in trust for the people of the Province of Ontario and others who may use them for their benefit, education and enjoyment and the provincial trails shall be maintained and made use of so as to leave them unimpaired for the enjoyment of future generations in accordance with this Act and the regulations. Provincial trails dedicated to public

4.—(1) The Lieutenant Governor in Council may set apart or designate as a provincial trail any public lands in Ontario, may increase or decrease the area of any provincial trail and may delimit any provincial trail. Provincial trails designated

(2) Land may be acquired under *The Ministry of Government Services Act* for the purposes of this Act. Acquisition of land 1973, c. 2

(3) The Minister may enter into agreements with persons with respect to the accepting of or granting of easements or other interests in land in connection with the establishment, use or maintenance of a provincial trail. Minister may enter into agreements

Gifts

(4) The Minister may receive and take from any person by grant, gift, devise, bequest or otherwise any property, real or personal, or any interest therein for the purposes of a provincial trail.

Classification of provincial trails

5. The Lieutenant Governor in Council may classify any provincial trail or part thereof as a recreation trail, scenic trail, historic trail, primitive trail, river trail or such other class of trail as he may designate.

Council established

6.—(1) A Council to be known as the "Trail Advisory Council" is hereby established.

Composition of Council

(2) The Council shall be composed of not fewer than seven and not more than nine members appointed by the Lieutenant Governor in Council, which members shall consist of at least,

(*a*) one person designated by the Minister;

(*b*) one person who is a district forester or superintendent of a provincial park;

(*c*) one person who is a member of the executive committee of a conservation authority; and

(*d*) one person who is a member of a private organization whose chief object is the use and enjoyment of trails.

Term of office

(3) A member of Council may hold office for a term not exceeding three years, and shall not serve more than two consecutive terms.

Chairman and vice-chairman

(4) The Lieutenant Governor in Council shall designate one of the members to be chairman and another member to be vice-chairman of the Council.

Quorum

(5) Five members of the Council constitute a quorum.

Vacancies

(6) The Lieutenant Governor in Council may fill any vacancy among the members of the Council.

Objects and powers

7. The objects of the Council are and it has the power,

(*a*) to compile and evaluate information on any matter concerning provincial trails;

(*b*) to study and make recommendations concerning the administration of provincial trails.

8. The Council may make such by-laws as are considered expedient for its constitution and the administration of its affairs, and may do such other things as are considered necessary or advisable to carry out its objects. By-laws

9. The Council shall make a report annually to the Minister who shall submit the report to the Lieutenant Governor in Council and shall then lay the report before the Assembly if it is in session or, if not, at the next ensuing session. Annual report

10. The Lieutenant Governor in Council may make regulations, Regulations

(*a*) for the care, preservation, improvement, control and management of the provincial trails;

(*b*) regulating and controlling prospecting or the staking out of mining claims or the development of mineral interest or the working of mines on provincial trails;

(*c*) prohibiting or regulating and controlling the occupation of public lands on provincial trails or designating areas thereon on which land may be leased or occupied and describing such areas by metes and bounds or in relation to highways, lakes, rivers or railways;

(*d*) regulating and controlling the use of lands on provincial trails;

(*e*) prohibiting the erection of buildings or structures on provincial trails, or regulating and controlling the nature, cost, type of construction or the location of buildings or structures that may be erected thereon;

(*f*) governing the granting, issue, form, renewal, transfer and cancellation of leases and other rights to public lands on provincial trails and prescribing terms and conditions in connection therewith;

(*g*) prohibiting or regulating and controlling the use or keeping of horses, dogs and other animals on provincial trails;

(*h*) prohibiting or regulating and controlling the erection, posting or other display of notices, signs, signboards and other advertising devices on provincial trails;

(*i*) prohibiting or regulating and controlling the use, setting out and extinguishment of fires on provincial trails;

(*j*) for issuing permits to persons to enter and travel on provincial trails;

(*k*) prohibiting or regulating, controlling and licensing trades, businesses, amusements, sports, occupations and other activities or undertaking on provincial trails;

(*l*) prescribing the fees or rentals payable for any licence, permit, lease or other right issued, made or given in respect of a provincial trail.

Commencement

11. This Act comes into force on the day it receives Royal Assent.

Short title

12. This Act may be cited as *The Provincial Trails Act, 1974*.

An Act respecting
Provincial Trails

1st Reading

May 31st, 1974

2nd Reading

3rd Reading

MR. DEACON

(*Private Member's Bill*)

1974

BILL 75 Government Bill

4TH SESSION, 29TH LEGISLATURE, ONTARIO
23 ELIZABETH II, 1974

The Securities Act, 1974

THE HON. J. T. CLEMENT
Minister of Consumer and Commercial Relations

TORONTO
PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO

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Explanatory Note

The Bill is a revision of *The Securities Act*.

The purpose of the revision is,

(*a*) to provide comprehensive regulation of the mutual fund industry by implementing the recommendations of The Report of the Canadian Committee on Mutual Funds and Investment Contracts (1969);

(*b*) to establish a more coherent continuous disclosure system for the purpose of,

(i) providing equal access to material information of the affairs of an issuer, and, consequently,

(ii) permitting a more exhaustive definition of the circumstances in which securities may be traded without restriction,

in accordance with the principles underlying the recommendations of The Report of the Committee of the Ontario Securities Commission on the Problems of Disclosure Raised for Investors by Business Combinations and Private Placements;

(*c*) to amend the existing take-over bid provisions in accordance with the recommendations of Chapters 13 and 16 of The Report on Mergers, Amalgamations and Certain Related Matters by the Select Committee on Company Law (November, 1973);

(*d*) to expand the insider trading liability provision to include trading of securities of an issuer with knowledge of a material fact or change in respect of the issuer that has not been generally disclosed, to make the informing of another person or company of that material fact or change an offence and to implement the recommendation of Chapter 22 of The Report on Mergers, Amalgamations and Certain Related Matters by the Select Committee on Company Law;

(*e*) to remove matters generally regarded as corporate law from securities legislation;

(*f*) to amend some existing provisions of the securities legislation in an effort to effectively achieve their purpose; and

(*g*) to reorganize the securities legislation into a more logical format that includes only fundamental principles and to provide the details of fundamental principles in the regulations under the securities legislation.

BILL 75 **1974**

The Securities Act, 1974

HER MAJESTY, by and with advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

INTERPRETATION

1.—(1) In this Act, Interpretation

1. "adviser" means a person or company engaging in or holding himself or itself out as engaging in the business of advising others as to the investing in or the buying or selling of securities;

2. "associate", where used to indicate a relationship with any person or company means,

   i. any company of which such person or company beneficially owns, directly or indirectly, voting securities carrying more than 10 per cent of the voting rights attached to all voting securities of the company for the time being outstanding,

   ii. any partners of that person or company acting by or for the partnership of which they are both partners,

   iii. any trust or estate in which such person or company has a substantial beneficial interest or as to which such person or company serves as trustee or in a similar capacity,

   iv. any spouse, son or daughter of that person,

   v. any relative of such person or of his spouse, other than a relative referred to in subparagraph iv, who has the same home as such person,

3. "Commission" means the Ontario Securities Commission;

4. "company" means any corporation, incorporated association, incorporated syndicate or other incorporated organization;

5. "contract" includes a trust agreement, declaration of trust or other similar instrument;

6. "contractual plan" means any contract or other arrangement for the purchase of shares or units of a mutual fund by payments over a specified period or by a specified number of payments where the amount deducted from any one of the payments as sales charges is larger than the amount that would have been deducted from such payment for sales charges if deductions had been made from each payment at a constant rate for the duration of the plan;

7. "contractual plan service company" means a person or company that sponsors or administers a contractual plan other than a trust company registered under *The Loan and Trust Corporations Act*;

R.S.O. 1970, c. 254

8. "dealer" means a person or company that trades in securities in the capacity of principal or agent;

9. "decision" means a direction, decision, order, ruling or other requirement made under a power or right conferred by this Act or the regulations;

10. "Director" means the Director or any Deputy Director of the Commission;

11. "director", where used in relation to a person, includes a person or company acting in a capacity similar to that of a director of a company;

12. "distribution", where used in relation to trading in securities, means,

    i. a trade in securities of an issuer which have not been previously issued,

    ii. a trade by or on behalf of an issuer in previously issued securities of that issuer which have been redeemed or purchased by or donated to that issuer, or

iii. a trade in previously issued securities of an issuer from the holdings of any person, company or combination of persons or companies holding a sufficient number of any securities of that issuer to affect materially the control of that issuer, but any holding of any person, company or combination of persons and companies holding more than 20 per cent of the outstanding voting securities of an issuer shall, in the absence of evidence to the contrary, be deemed to affect materially the control of that issuer,

and "distribute", "distributed" and "distributing" have a corresponding meaning;

13. "distribution company" means a person or company distributing securities under a distribution contract;

14. "distribution contract" means a contract between a mutual fund or its trustees or other legal representative and a person or company under which that person or company is granted the right to purchase the shares or units of the mutual fund for distribution or to distribute the shares or units of the mutual fund on behalf of the mutual fund;

15. "form of proxy" means a written or printed form that, upon completion and execution by or on behalf of a security holder, becomes a proxy;

16. "individual" means a natural person, but does not include a partnership, unincorporated association, unincorporated syndicate, unincorporated organization, trust, or a natural person in his capacity as trustee, executor, administrator or other legal personal representative;

17. "issuer" means a person or company that has outstanding, issues or proposes to issue, a security;

18. "management company" means a person or company that provides investment advice, under a management contract;

19. "management contract" means a contract under which an issuer is provided with investment advice, alone or together with administrative or management services, for valuable consideration;

20. "material", where used in relation to a fact or change, means a fact or change that might reasonably be expected to have a significant effect on the market value of a security of an issuer;

21. "Minister" means the Minister of Consumer and Commercial Relations or other member of the Executive Council to whom the administration of this Act may be assigned;

22. "misrepresentation" means,

    i. an untrue statement of material fact, or

    ii. an omission to state a material fact;

23. "mutual fund" includes an issuer of securities that entitle the holder to receive on demand, or within a specified period after demand, an amount computed by reference to the value of a proportionate interest in the whole or in a part of the net assets, including a separate fund or trust account, of the issuer of such securities;

24. "officer" means the chairman, any vice-chairman of the board of directors, the president, any vice-president, the secretary, the assistant secretary, the treasurer, the assistant treasurer, and the general manager of a company, and any other person designated an officer of a company by by-law or similar authority, or any individual acting in a similar capacity on behalf of an issuer or registrant;

25. "person" means an individual, partnership, unincorporated association, unincorporated syndicate, unincorporated organization, trust, trustee, executor, administrator, or other legal representative;

26. "private company" means a company in whose instrument of incorporation,

    i. the right to transfer its shares is restricted,

    ii. the number of its shareholders, exclusive of persons who are in its employment and exclusive of persons who, having been formerly in the employment of the company, were, while in that employment, and have continued after termination of that employment to be, shareholders of the company, is limited to

not more than fifty, two or more persons who are the joint registered owners of one or more shares being counted as one shareholder, and

iii. any invitation to the public to subscribe for its securities is prohibited;

27. "promoter" means,

i. a person or company that, acting alone or in conjunction with one or more other persons, companies or a combination thereof, directly or indirectly takes the initiative in founding, organizing or substantially reorganizing the business of an issuer, or

ii. a person or company that, in connection with the founding, organizing or substantial reorganizing of the business of an issuer, directly or indirectly receives in consideration of services or property, or both services and property, 10 per cent or more of any class of securities of the issuer or 10 per cent or more of the proceeds from the sale of any class of securities of a particular issue, but a person or company who receives such securities or proceeds either solely as underwriting commissions or solely in consideration of property shall not be deemed a promoter within the meaning of this definition if such person or company does not otherwise take part in founding, organizing, or substantially reorganizing the business;

28. "proxy" means a completed and executed form of proxy by means of which a security holder has appointed a person or company as his nominee to attend and act for him and on his behalf at a meeting of security holders;

29. "register" means register under this Act, and "registered" has a corresponding meaning;

30. "registrant" means a person or company registered or required to be registered under this Act;

31. "regulations" means the regulations made under this Act;

32. "reporting issuer" means an issuer,

i. that has issued voting securities that, on or after the 1st day of May, 1967, were distributed in the course of a distribution to the public or in respect of which a prospectus was filed and a receipt therefor obtained under a predecessor of this Act or in respect of which a securities exchange take-over bid circular was filed under a predecessor of this Act,

ii. that has filed a prospectus and obtained a receipt therefor under this Act or that has filed a securities exchange take-over bid circular under this Act,

iii. any of whose securities have been at any time since the 1st day of May, 1967, listed and posted for trading on any stock exchange in Ontario recognized by the Commission, regardless of when such listing and posting for trading commenced, or

R.S.O. 1970, c. 53

iv. to which *The Business Corporations Act* applies and which, for the purposes of that Act, is offering its securities to the public,

other than,

R.S.C. 1970, c. B-1

v. a bank to which the *Bank Act* (Canada) applies, or

R.S.O. 1970, cc. 254, 224

vi. a loan corporation or trust company registered under *The Loan and Trust Corporations Act* or a company undertaking and transacting life insurance licensed under *The Insurance Act*;

33. "salesman" means an individual who is employed by a dealer for the purpose of making trades in securities on behalf of such dealer;

34. "security" includes,

i. any document, instrument or writing commonly known as a security,

ii. any document constituting evidence of title to or interest in the capital, assets, property, profits, earnings or royalties of any person or company,

iii. any document constituting evidence of an interest in an association of legatees or heirs,

iv. any document constituting evidence of an option, subscription or other interest in or to a security,

v. any bond, debenture, note or other evidence of indebtedness, share, stock, unit, unit certificate, participation certificate, certificate of share or interest, pre-organization certificate, subscription or any agreement under which the interest of the purchaser is valued for purposes of conversion or surrender by reference to the value of a proportionate interest in a specified portfolio of assets,

vi. any agreement providing that money received will be repaid or treated as a subscription to shares, stock, units or interests at the option of the recipient or of any person or company,

vii. any certificate of share or interest in a trust, estate or association,

viii. any profit-sharing agreement or certificate,

ix. any certificate or interest in an oil, natural gas or mining lease, claim or royalty voting trust certificate,

x. any oil or natural gas royalties or leases or fractional or other interest therein,

xi. any collateral trust certificate,

xii. any income or annuity contract not issued by an insurance company or an issuer within the meaning of *The Investment Contracts Act*, R.S.O. 1970, c. 226

xiii. any investment contract, other than an investment contract within the meaning of *The Investment Contracts Act*, and

xiv. any document constituting evidence of an interest in a scholarship or educational plan or trust,

whether any of the foregoing relate to an issuer or proposed issuer;

35. "senior officer" means,

i. the chairman or any vice-chairman of the board of directors, the president, any vice-president, the secretary, the treasurer or the general manager of a company or any other individual who performs functions for an issuer similar to those normally performed by an individual occupying any such office, and

ii. each of the five highest paid employees of an issuer, including any individual referred to in subparagraph i;

36. "trade" or "trading" includes,

i. any sale, disposition or exchange of a security for valuable consideration, whether the terms of payment be on margin, instalment or otherwise,

ii. any participation as a floor trader in any transaction in a security upon the floor of any stock exchange,

iii. any receipt by a registrant of an order to buy or sell a security, and

iv. any act, advertisement, solicitation, conduct or negotiation directly or indirectly in furtherance of any of the foregoing;

37. "underwriter" means a person or company who, as principal, agrees to purchase securities with a view to distribution or who, as agent, offers for sale or sells securities in connection with a distribution and includes a person or company who has a direct or indirect participation in any such distribution, but does not include,

i. a person or company whose interest in the transaction is limited to receiving the usual and customary distributor's or seller's commission payable by an underwriter or issuer,

ii. a mutual fund that, under the laws of the jurisdiction to which it is subject, accepts its shares for surrender and resells them, or

iii. a company that, under the laws of the jurisdiction to which it is subject, purchases its shares and resells them;

38. "voting security" means any security other than a debt security of an issuer carrying a voting right either under all circumstances or under some circumstances which have occurred and are continuing.

Affiliated companies

(2) A company shall be deemed to be an affiliate of another company if one of them is the subsidiary of the other or if both are subsidiaries of the same company or if each of them is controlled by the same person or company.

Controlled companies

(3) A company shall be deemed to be controlled by another person or company or by two or more companies if,

(*a*) voting securities of the first-mentioned company carrying more than 50 per cent of the votes for the election of directors are held, otherwise than by way of security only, by or for the benefit of such other person or company or by or for the benefit of such other companies; and

(*b*) the votes carried by such securities are sufficient, if exercised, to elect a majority of the board of directors of the first-mentioned company.

Subsidiary companies

(4) A company shall be deemed to be a subsidiary of another company if,

(*a*) it is controlled by,

(i) that other, or

(ii) that other and one or more companies each of which is controlled by that other, or

(iii) two or more companies each of which is controlled by that other; or

(*b*) it is a subsidiary of a company that is that other's subsidiary.

Beneficial ownership of securities

(5) A person shall be deemed to own beneficially securities beneficially owned by a company controlled by him or by an affiliate of such company.

Idem

(6) A company shall be deemed to own beneficially securities beneficially owned by its affiliates.

PART I

THE COMMISSION

Commission

2.—(1) The Commission is responsible for the administration of this Act and shall be composed of a Chairman and not more than seven other members, one of whom shall be designated as Vice-Chairman.

Appointment

(2) The members of the Commission shall be appointed by the Lieutenant Governor in Council.

Quorum

(3) Two members of the Commission constitute a quorum. R.S.O. 1970, c. 426, s. 2, *amended*.

Chairman and members

3.—(1) The Chairman shall be the chief executive officer of the Commission and shall devote his full time to the work of the Commission, and the other members shall devote such time as may be necessary for the due performance of their duties as members of the Commission.

Delegation of powers

(2) The Chairman, Vice-Chairman or any member of the Commission may exercise the powers and shall perform such duties vested in or imposed upon the Commission by this Act or the regulations as are assigned to him by the Commission, except those referred to in section 7 and sections 10 to 16.

Review

(3) Every decision made pursuant to an assignment under subsection 2 is subject to review by the Commission under section 7 in the same manner as if it had been made by the Director, and the person who made this decision shall not sit on the hearing and review thereof by the Commission. R.S.O. 1970, c. 426, s. 3.

PART II

FINANCIAL DISCLOSURE ADVISORY BOARD

Financial Disclosure Advisory Board

4.—(1) There shall be a board to be known as The Financial Disclosure Advisory Board, composed of not more than five members appointed by the Lieutenant Governor in Council, and the Lieutenant Governor in Council may designate one of the members to be chairman of The Financial Disclosure Advisory Board.

Meetings

(2) The Financial Disclosure Advisory Board shall meet at the call of the Commission.

(3) The Financial Disclosure Advisory Board shall, when requested by the Commission, consult with and advise the Commission concerning the financial disclosure requirements of this Act and the regulations. Duties

(4) The members of The Financial Disclosure Advisory Board shall serve without remuneration, but the Lieutenant Governor in Council may fix a *per diem* allowance to be payable to each member, and every member is entitled to his reasonable and necessary expenses, as certified by the chairman, for attending at meetings and transacting the business of The Financial Disclosure Advisory Board. R.S.O. 1970, c. 426, s. 146. Remuneration

PART III

THE DIRECTOR

5. The Director may exercise the powers and shall perform the duties vested in or imposed upon him by this Act, and he may exercise the powers and shall perform the duties vested in or imposed upon the Commission by this Act or the regulations that are assigned to him by the Commission except those referred to in section 7 and sections 10 to 16 and, subject to the direction of the Commission, he is the chief administrative officer of the Commission. R.S.O. 1970, c. 426, s. 4. Director

6. Where, Refunds

(*a*) an application for registration or renewal of registration is abandoned; or

(*b*) a preliminary prospectus or prospectus is withdrawn,

the Director may, upon the application of the person or company who made the application or filed the preliminary prospectus or prospectus, recommend to the Treasurer of Ontario that a refund of the fee paid on the making of the application or the filing of the preliminary prospectus or prospectus or such part thereof as he deems fair and reasonable be made, and the Treasurer may make such refund from the Consolidated Revenue Fund. R.S.O. 1970, c. 426, s. 17.

PART IV

ADMINISTRATIVE PROCEEDINGS, REVIEWS AND APPEALS

Review of director's decisions

7.—(1) Any person or company directly affected by a decision of the Director may, by notice in writing sent by registered mail to the Commission within thirty days after the mailing of the notice of the decision, request and be entitled to a hearing and review thereof by the Commission.

Power on review

(2) Upon a hearing and review, the Commission may by order confirm the decision under review or make such other decision as the Commission considers proper. R.S.O. 1970, c. 426, s. 28; 1971, c. 31, s. 5.

Stay

(3) Notwithstanding that a person or company requests a hearing and review under subsection 1 of this section or subsection 3 of section 3, the decision under review takes effect immediately, but the Commission may grant a stay until disposition of the hearing and review. 1973, c. 11, s. 1.

Appeal

8.—(1) Any person or company directly affected by a decision of the Commission, other than a decision under section 72, may appeal to the Supreme Court.

Stay

(2) Notwithstanding that an appeal is taken under this section, the decision appealed from takes effect immediately, but the Commission or the Divisional Court may grant a stay until disposition of the appeal.

Certification of documents

(3) The Secretary shall certify to the Registrar of the Supreme Court,

(*a*) the decision that has been reviewed by the Commission;

(*b*) the decision of the Commission, together with any statement of reasons therefor;

(*c*) the record of the proceedings before the Commission; and

(*d*) all written submissions to the Commission or other material that is relevant to the appeal.

Minister entitled to appear

(4) The Minister is entitled to be heard by counsel or otherwise upon the argument of an appeal under this section.

Powers of court on appeal

(5) Where an appeal is taken under this section, the court may by its order direct the Commission to make such decision or to do such other act as the Commission is authorized and empowered to do under this Act or the

regulations and as the court considers proper, having regard to the material and submissions before it and to this Act and the regulations, and the Commission shall make such decision or do such act accordingly.

(6) Notwithstanding an order of the court, on an appeal, the Commission may make any further decision upon new material or where there is a significant change in the circumstances, and every such decision is subject to this section. 1973, c. 11, s. 2, *amended*. Further decisions

9.—(1) There shall be a Secretary of the Commission who may, Secretary

(*a*) accept service of all notices or other documents on behalf of the Commission;

(*b*) when authorized by the Commission, sign any decision made by the Commission as a result of a hearing;

(*c*) certify under his hand any decision made by the Commission or any document, record or thing used in connection with any hearing by the Commission where certification is required for a purpose other than that stated in subsection 3 of section 8; and

(*d*) exercise such other powers as are vested in him by this Act or the regulations and perform such other duties as are imposed upon him by this Act or the regulations or by the Commission.

(2) Where the Secretary is absent for any reason, the Commission may designate another individual to act in the capacity of Secretary and the individual designated may exercise all the powers vested in the Secretary by this Act or the regulations. Acting Secretary

(3) A certificate purporting to be signed by the Secretary is, without proof of the office or signature certifying, admissible in evidence, so far as is relevant, for all purposes in any action, proceeding or prosecution. *New*. Certification by Secretary

PART V

INVESTIGATIONS

10.—(1) Where upon a statement made under oath it appears probable to the Commission that any person or company has, Investigation order

(*a*) contravened any of the provisions of this Act or the regulations; or

R.S.C. 1970, c. C-34

(*b*) committed an offence under the *Criminal Code* (Canada) in connection with a trade in securities,

the Commission may, by order, appoint any person to make such investigation as it deems expedient for the due administration of this Act, and in the order shall determine and prescribe the scope of the investigation.

Investigation order

(2) The Commission may, by order, appoint any person to make such investigation as it deems expedient for the due administration of this Act or into any matter relating to trading in securities, and in such order shall determine and prescribe the scope of the investigation.

Scope of investigation

(3) For the purposes of any investigation order under this section, the person appointed to make the investigation may investigate, inquire into and examine,

(*a*) the affairs of the person or company in respect of which the investigation is being made and any books, papers, documents, correspondence, communications, negotiations, transactions, investigations, loans, borrowings and payments to, by, on behalf of or in relation to or connected with such person or company and any property, assets or things owned, acquired or alienated in whole or in part by such person or company or by any person or company acting on behalf of or as agent for such person or company; and

(*b*) the assets at any time held, the liabilities, debts, undertakings and obligations at any time existing, the financial or other conditions at any time prevailing in or in relation to or in connection with any such person or company and the relationship that may at any time exist or have existed between such person or company and any other person or company by reason of investments, commissions promised, secured or paid, interests held or acquired, the loaning or borrowing of money, stock or other property, the transfer, negotiation or holding of stock, interlocking directorates, common control, undue influence or control or any other relationship.

Powers to summon witnesses and require production

(4) The person making an investigation under this section has the same power to summon and enforce the attendance of witnesses and compel them to give evidence on oath or otherwise, and to produce documents, records and things, as is vested in the Supreme Court for the trial of civil actions, and the failure or refusal of a person to attend, to answer

questions or to produce such documents, records and things as are in his custody or possession makes the person liable to be committed for contempt by a judge of the Supreme Court as if in breach of an order or judgment of the Supreme Court provided that no provision of *The Evidence Act* exempts any bank or any officer or employee thereof from the operation of this section. R.S.O. 1970, c. 151

(5) A person giving evidence at an investigation under this section may be represented by counsel. Counsel

(6) Where an investigation is ordered under this section, the person appointed to make the investigation may seize and take possession of any documents, records, securities or other property of the person or company whose affairs are being investigated. Seizure of property

(7) Where any documents, records, securities or other property are seized under subsection 6, such documents, records, securities or other property shall be made available for inspection and copying by the person or company from whom seized at a mutually convenient time and place if a request for an opportunity to inspect or copy is made by such person or company to the person appointed to make the investigation. Inspection of seized documents

(8) Where an investigation is ordered under this section, the Commission may appoint an accountant or other expert to examine documents, records, properties and matters of the person or company whose affairs are being investigated. R.S.O. 1970, c. 426, s. 21 (1-8). Accountants and experts

(9) Every person appointed under subsection 1, 2 or 8 shall provide the Commission with a full and complete report of the investigation including any transcript of evidence and material in his possession relating to the investigation. R.S.O. 1970, c. 426, s. 21 (9), *amended*. Report of investigation

11. Where upon the report of an investigation made under section 10 it appears to the Commission that any person or company may have, Report to Minister

(*a*) contravened any of the provisions of this Act or the regulations; or

(*b*) committed an offence under the *Criminal Code* (Canada) in connection with a transaction relating to securities, R.S.C. 1970, c. C-34

the Commission shall send a full and complete report of the investigation, including the report made to it, any transcript

of evidence and any material in the possession of the Commission relating thereto, to the Minister. R.S.O. 1970, c. 426, s. 22.

Investigation by order of Minister

12. Notwithstanding section 10, the Minister may, by order, appoint any person to make such investigation as the Minister considers expedient for the due administration of this Act or into any matter relating to trading in securities, in which case the person so appointed, for the purposes of the investigation, has the same authority, powers, rights, and privileges as a person appointed under section 10. R.S.O. 1970, c. 426, s. 23.

Evidence not to be disclosed

13. No person, without the consent of the Commission, shall disclose, except to his counsel, any information or evidence obtained or the name of any witness examined or sought to be examined under section 10 or 12.

Report to Minister

14. Where an investigation has been made under section 10, the Commission may, and, where an investigation has been made under section 12, the person making the investigation shall, report the result thereof, including the evidence, findings, comments and recommendations, to the Minister, and the Minister may cause the report to be published in whole or in part in such manner as he considers proper. R.S.O. 1970, c. 426, s. 25.

Order to freeze property

15.—(1) The Commission may,

(*a*) where it is about to order an investigation in respect of a person or company under section 10 or during or after an investigation in respect of a person or company under section 10 or 12;

(*b*) where it is about to make or has made an order under section 121 that trading in securities of an issuer shall cease;

(*c*) where it is about to make or has made a decision suspending or cancelling the registration of any person or company or affecting the right of any person or company to trade in securities; or

(*d*) where criminal proceedings or proceedings in respect of a contravention of this Act or the regulations are about to be or have been instituted against any person or company, that in the opinion of the Commission are connected with or arise out of any security or any trade therein, or out of any business conducted by such person or company,

in writing or by telegram direct any person or company having on deposit or under control or for safekeeping any funds or securities of the person or company referred to in clause *a*, *b*, *c* or *d* to hold such funds or securities or direct the person or company referred to in clause *a*, *b*, *c* or *d* to refrain from withdrawing any such funds or securities from any other person or company having any of them on deposit, under control or for safekeeping or to hold all funds or securities of clients or others in his possession or control in trust for any interim receiver, custodian, trustee, receiver or liquidator appointed under the *Bankruptcy Act* (Canada), *The Judicature Act*, *The Corporations Act*, *The Business Corporations Act*, the *Winding-up Act* (Canada) or section 16 of this Act, or until the Commission in writing revokes the direction or consents to release any particular fund or security from the direction, provided that no such direction applies to funds or securities in a stock exchange clearing house or to securities in process of transfer by a transfer agent unless the direction expressly so states, and in the case of a bank, loan or trust company, the direction applies only to the offices, branches or agencies thereof named in the direction.

R.S.C. 1970, cc. B-3, W-10, R.S.O. 1970, cc. 228, 89, 53

(2) Any person or company named in an order issued under subsection 1 may, if in doubt as to the application of the order to particular funds or securities, apply to the Commission for an order of clarification. R.S.O. 1970, c. 426, s. 26 (1, 2).

Application for directions

(3) Upon the application of the person or company directly affected by an order under this section, the Commission may make an order on such terms and conditions it may impose revoking the order or consenting to the release of any fund or security. *New*.

Revocation or amendment of order

(4) In any of the circumstances mentioned in clause *a*, *b*, *c*, or *d* of subsection 1, the Commission may in writing or by telegram notify any land registrar or mining recorder that proceedings are being or are about to be taken that may affect land or mining claims belonging to the person or company referred to in the notice, which notice shall be registered or recorded against the lands or claims mentioned therein and has the same effect as the registration or recording of a certificate of *lis pendens* or a caution, and the Commission may in writing revoke or modify the notice. R.S.O. 1970, c. 426, s. 26 (3), *amended*.

Notice to land registry offices

Appointment of receiver, etc.

16. The Commission may,

(*a*) where it is about to order an investigation in respect of a person or company under section 10 or during or after an investigation in respect of a person or company under section 10 or 12;

(*b*) where it is about to make or has made an order under section 121 that trading in securities of an issuer shall cease;

(*c*) where it is about to make or has made a decision suspending or cancelling the registration of any person or company or affecting the right of any person or company to trade in securities;

(*d*) where criminal proceedings or proceedings in respect of a contravention of this Act or the regulations are about to be or have been instituted against any person or company that in the opinion of the Commission are connected with or arise out of any security or any trade therein, or out of any business conducted by such person or company; or

(*e*) where a person or company fails or neglects to comply with the minimum net asset requirements, investment restrictions, ownership restrictions, or capital requirements prescribed by the regulations for such person or company,

apply to a judge of the Supreme Court for the appointment of a receiver or a receiver and manager or a trustee of the property of such person or company.

Appointment

(2) Upon an application under subsection 1, the judge may, where he is satisfied that the appointment of a receiver or a receiver and manager or a trustee of the property of any person or company is in the best interests of the creditors of any such person or company or of persons or companies any of whose property is in the possession or under the control of such person or company, or, in a proper case, of the security holders of or subscribers to such person or company, appoint a receiver or a receiver and manager or a trustee of the property of such person or company. R.S.O. 1970, c. 426, s. 27 (1, 2).

Ex parte application

(3) Upon an *ex parte* application made by the Commission under this section, the judge may make an order under subsection 2 appointing a receiver or a receiver and manager or a trustee for a period not exceeding fifteen days. R.S.O. 1970, c. 426, s. 27 (3), *amended*.

(4) A receiver or a receiver and manager or a trustee of the property of any person or company appointed under this section shall be the receiver or receiver and manager or the trustee of all of the property belonging to the person or company or held by the person or company on behalf of or in trust for any other person or company, and the receiver or the receiver and manager or the trustee shall have authority, if so directed by the judge, to wind up or manage the business and affairs of the person or company and all powers necessary or incidental thereto. Powers of receiver, etc.

(5) An order made under this section may be enforced in the same manner as any order or judgment of the Supreme Court and may be varied or discharged upon an application made by notice. Enforcement of order

(6) Upon an application made under this section, the rules of practice of the Supreme Court apply. R.S.O. 1970, c. 426, s. 27 (4-6). Rules of practice

PART VI

AUDITS

17.—(1) Notwithstanding anything in sections 18, 19 and 20, the Commission may in writing appoint any person to examine at any time, Audits by Commission

(*a*) the financial affairs of a registrant or a reporting issuer; and

(*b*) the books and records of a custodian of assets of a mutual fund or of a custodian of shares or units of a mutual fund under a custodial agreement or other arrangement with a person or company engaged in the distribution of shares or units of the mutual fund,

and prepare such financial or other statements and reports that may be required by the Commission.

(2) The person making an examination under this section may inquire into and examine all books of account, securities, cash, documents, bank accounts, vouchers, correspondence and records of every description of the person or company whose financial affairs are being examined, and no person or company shall withhold, destroy, conceal or refuse to give any information or thing reasonably required for the purpose of the examination. Access to records

(3) The Commission may charge such fees as may be prescribed by the regulations for any examination made under this section. R.S.O. 1970, c. 426, s. 33, *amended*. Fees

PART VII

SELF-REGULATION—GENERALLY

Panel of auditors

18. Every stock exchange in Ontario recognized by the Commission, the Ontario District of the Investment Dealers' Association of Canada, the Broker-Dealers' Association of Ontario, and the Canadian Mutual Funds Association shall,

(*a*) select a panel of auditors, each of whom shall have practised as such in Ontario for not fewer than five years and shall be known as a panel auditor or members' auditor; and

(*b*) employ an exchange auditor, district association auditor or association auditor, as the case may be, whose appointment is subject to the approval of the Commission, and the appointee shall be an auditor who has practised as such in Ontario for not fewer than ten years. R.S.O. 1970, c. 426, s. 30.

Audits by stock exchange and associations

19.—(1) Every stock exchange in Ontario recognized by the Commission, the Ontario District of the Investment Dealers' Association of Canada, the Broker-Dealers' Association of Ontario and the Canadian Mutual Funds Association shall cause each member of such class or classes of their members as the Commission may designate in writing to appoint an auditor from the panel of auditors selected under clause *a* of section 18 and such auditor shall make the examination of the financial affairs of such member as called for by the by-laws, rules or regulations applicable to members of such class or classes and shall report thereon to the exchange auditor, district association auditor or association auditor, as the case may be.

Audit by-laws subject to approval

(2) The by-laws, rules and regulations of every stock exchange in Ontario recognized by the Commission, the rules and regulations of the Ontario District of the Investment Dealers' Association of Canada, the regulations of the Broker-Dealers' Association of Ontario and the by-laws, rules and regulations of the Canadian Mutual Funds Association in respect of the practice and procedure of the examinations under subsection 1 are subject to the approval of the Commission and the actual conduct of the examinations shall be satisfactory to the Commission. R.S.O. 1970, c. 426, s. 31.

Filing of financial statements of registrants

20. Every registrant whose financial affairs are not subject to examination under section 19 shall keep such books and records as are necessary for the proper recording

of his business transactions and financial affairs and shall deliver to the Commission annually and at such other time or times as the Commission may require a financial statement satisfactory to the Commission as to his financial position, certified by such registrant or an officer or partner of such registrant and reported upon by the auditor of such registrant, and shall deliver to the Commission such other information as the Commission may require in such form as it may prescribe. R.S.O. 1970, c. 426, s. 32.

PART VIII

STOCK EXCHANGES

Stock exchanges

21.—(1) No person or company shall carry on business as a stock exchange in Ontario unless such stock exchange is recognized in writing as such by the Commission.

Commission's powers

(2) The Commission may, where it appears to it to be in the public interest, make any decision,

(*a*) with respect to the manner in which any stock exchange in Ontario carries on business;

(*b*) with respect to any by-law, ruling, instruction, or regulation of any such stock exchange;

(*c*) with respect to trading on or through the facilities of any such stock exchange or with respect to any security listed and posted for trading on any such stock exchange; or

(*d*) to ensure that issuers whose securities are listed and posted for trading on any such stock exchange comply with this Act and the regulations.

Review of decisions of stock exchange

(3) Any person or company directly affected by any direction, order or decision made under any by-law, rule or regulation of a stock exchange in Ontario may apply to the Commission for a hearing and review thereof and section 7 applies to the hearing and review in the same manner as to the hearing and review of a decision of the Director. R.S.O. 1970, c. 426, s. 140.

Record of transactions

22. Every stock exchange in Ontario shall keep a record showing the time at which each transaction on such stock exchange took place and shall supply to any customer of any member of such stock exchange, upon production of a written confirmation of any transaction with such member, particulars of the time at which the transaction took place and verification or otherwise of the matters set forth in the confirmation. R.S.O. 1970, c. 426, s. 141.

PART IX

REGISTRATION

Registration for trading

23.—(1) No person or company shall,

(*a*) trade in a security unless such person or company is registered as a dealer, or is registered as a salesman or as a partner or as an officer of a registered dealer and is acting on behalf of such dealer;

(*b*) act as an underwriter unless such person or company is registered as an underwriter;

(*c*) act as an adviser unless such person or company is registered as an adviser, or is registered as a partner or as an officer of a registered adviser and is acting on behalf of such adviser;

(*d*) act as a mutual fund unless such person or company is registered as a mutual fund;

(*e*) act as a management company unless such person or company is registered as a management company; or

(*f*) act as a contractual plan service company unless such person or company is registered as a contractual plan service company,

and such registration has been made in accordance with this Act and the regulations and such person or company has received written notice of such registration from the Director and, where such registration is subject to terms and conditions, the person or company complies with such terms and conditions. R.S.O. 1970, c. 426, s. 6 (1).

Approval of directors

(2) No person or company shall act as a director of a registrant until he or it has been approved by the Director. *New*.

Termination re salesmen

(3) The termination of the employment of a salesman with a registered dealer shall operate as a suspension of the registration of the salesman until notice in writing has been received by the Director from another registered dealer of the employment of the salesman by such other registered dealer and the reinstatement of the registration has been approved by the Director.

(4) The Director may designate as non-trading any employee or class of employees of a registered dealer that does not usually sell securities, but the designation may be cancelled as to any employee or class of employees where the Director is satisfied that any such employee or any member of such class of employees should be required to apply for registration as a salesman. R.S.O. 1970, c. 426, s. 6 (4, 5). Non-trading employee

24.—(1) The Director shall grant registration, renewal of registration, or reinstatement of registration to an applicant where in the opinion of the Director the applicant is suitable for registration and the proposed registration is not objectionable. R.S.O. 1970, c. 426, s. 7 (1). Granting of registration

(2) The Director may in his discretion restrict a registration by imposing terms and conditions thereon and, without limiting the generality of the foregoing, may restrict the duration of a registration and may restrict the registration to trades in certain securities or a certain class of securities. R.S.O. 1970, c. 426, s. 7 (3). Terms and conditions

(3) The Director shall not refuse to grant, renew or reinstate registration or impose terms and conditions thereon without giving the applicant an opportunity to be heard. R.S.O. 1970, c. 426, s. 7 (2). Refusal

25.—(1) The Commission, after giving a registrant an opportunity to be heard, may suspend, cancel, restrict or impose terms and conditions upon the registration or reprimand the registrant where in its opinion such action is in the public interest. Suspension, cancellation, etc.

(2) Where the delay necessary for a hearing under subsection 1 would, in the opinion of the Commission, be prejudicial to the public interest, the Commission may suspend the registration without giving the registrant an opportunity to be heard, in which case it shall forthwith notify the registrant of the suspension and of a hearing and review to be held before the Commission within fifteen days of the date of the suspension, which hearing and review shall be deemed to be a hearing and review under section 7. R.S.O. 1970, c. 426, s. 8, *amended*. Interim suspension

(3) Notwithstanding subsection 1, the Commission may, upon an application by a registrant, accept, subject to such terms and conditions as it may impose, the voluntary surrender of the registration of the registrant where it is satisfied the financial obligations of the registrant to its clients have been discharged and the surrender of the registration would not be prejudicial to the public interest. *New*. Surrender

Subsequent applications

26. A further application for registration may be made upon new or other material or where it is clear that material circumstances have changed. R.S.O. 1970, c. 426, s. 9.

Application

27. An application for registration shall be made in writing upon a form prescribed by the regulations and provided by the Commission, and shall be accompanied by such fee as may be prescribed by the regulations. R.S.O. 1970, c. 426, s. 10.

Address for service

28. Every applicant shall state in the application an address for service in Ontario and, except as otherwise provided in this Act, all notices under this Act or the regulations are sufficiently served for all purposes if delivered or sent by prepaid mail to the latest address for service so stated. R.S.O. 1970, c. 426, s. 11.

Further information

29. The Director may require any further information or material to be submitted by an applicant or a registrant within a specified time and may require verification by affidavit or otherwise of any information or material then or previously submitted or may require the applicant or the registrant or any partner, officer, director, governor or trustee of, or any person performing a like function for, or any employee of, the applicant or of the registrant to submit to examination under oath by a person designated by the Director. R.S.O. 1970, c. 426, s. 12, *amended*.

Residence

30.—(1) The Director may refuse registration to an individual if he has not been a resident of Canada for at least one year immediately prior to the date of application for registration and if he is not a resident of Ontario at the date of such application unless at the time of such application such individual is registered in a capacity corresponding to that of a dealer, adviser, underwriter, mutual fund, management company, contractual plan service company, partner, officer, or salesman under the securities laws of the jurisdiction in which he last resided and has been so registered for a period of not less than one year immediately preceding the date of the application and is, in the opinion of the Director, otherwise suitable for registration.

Idem

(2) The Director may refuse registration to a person or company if any director or officer of such person or company has not been a resident of Canada for at least one year immediately prior to the date of application for registration and is not a resident of Ontario at the date

of such application unless at the time of such application he is registered in a capacity corresponding to that of a dealer, adviser, underwriter, mutual fund, management company, contractual plan service company, partner, officer or salesman under the securities laws of the jurisdiction in which he last resided and has been so registered for a period of not less than one year immediately preceding the date of the application and is, in the opinion of the Director, otherwise suitable for registration. R.S.O. 1970, c. 426, s. 14, *amended*.

31.—(1) Every registered dealer shall, within five days of the event, notify the Director in writing of, Notice of changes

(*a*) any change in address for service or any business address;

(*b*) (i) any change in the directors or officers of the registered dealer and in the case of resignation, dismissal, severance or termination of employment, the reason therefor, and

(ii) any change in the security holders of the registered dealer;

(*c*) the commencement and termination of employment of every salesman and, in the case of termination of employment, the reason therefor;

(*d*) the opening or closing of any branch office and, in the case of the opening of any branch office, the name and address of the person in charge thereof; and

(*e*) any change in the name or address of the person in charge of any branch office.

(2) Every registered adviser, underwriter, mutual fund, management company, and contractual plan service company shall, within five days of the event, notify the Director in writing of, Idem

(*a*) any change in address for service or any business address; and

(*b*) any change in the directors, officers or security holders of such registered adviser, underwriter, mutual fund, management company or contractual plan service company and in the case of resignation, dismissal, severance or termination of employment of directors and officers, the reason therefor.

Idem

(3) Every registered salesman shall, within five days of the event, notify the Director in writing of,

(*a*) any change in his address for service or in his business address; and

(*b*) every commencement and termination of his employment by a registered dealer.

Exemptions

(4) The Director may, upon an application of a registrant that is a reporting issuer, exempt, subject to such terms and conditions as he may impose, the registrant from the requirement of subsections 1 and 2 that the Director be notified of any change in the security holders of the registrant where in his opinion it would not be prejudicial to the public interest to do so. R.S.O. 1970, c. 426, s. 15, *amended*.

PART X

EXEMPTIONS FROM REGISTRATION REQUIREMENTS

Exemptions of advisers

32. Registration as an adviser is not required to be obtained by,

R.S.C. 1970, cc. B-1, I-9

R.S.O. 1970, cc. 254, 224

(*a*) a bank to which the *Bank Act* (Canada) applies, or the Industrial Development Bank incorporated under the *Industrial Development Bank Act* (Canada), or a trust company registered under *The Loan and Trust Corporations Act*, or an insurance company licensed under *The Insurance Act*;

(*b*) a lawyer, accountant, engineer or teacher whose performance of such services is solely incidental to the practice of his profession;

(*c*) a person or company registered for trading in securities under this Act, or any partner, officer or employee thereof, whose performance of such services is solely incidental to the conduct of his or its business as such;

(*d*) a publisher of or any writer for any *bona fide* newspaper, news magazine or business or financial publication of general and regular paid circulation distributed only to subscribers thereto for value or to purchasers thereof, who gives advice as an adviser only through such publication and has no interest either directly or indirectly in any of the securities upon which the advice is given and receives no commission or other consideration for giving the ad-

vice and who gives the advice as solely incidental to the conduct of his business as a publisher or writer;

(*e*) a management company; or

(*f*) such other persons or companies as are designated by the regulations. R.S.O. 1970, c. 426, s. 18, *amended*.

33. Registration as a mutual fund is not required to be obtained by, Exemptions of mutual funds

(*a*) an investment club if,

i. its shares or units are held by not more than fifty persons,

ii. it does not pay or give any remuneration under a management contract or in respect of any trade in securities except normal brokerage fees, and

iii. all of its members are required to make contributions in proportion to the shares or units each holds for the purpose of financing its operations;

(*b*) a trust company registered under *The Loan and Trust Corporations Act* that issues securities in respect of, R.S.O. 1970, c. 254

i. an account solely to service a retirement savings plan registered under the *Income Tax Act* (Canada), or 1970-71, c. 63 (Can.)

ii. a pooled account in respect of which it does not solicit participation;

(*c*) such other persons or companies as are designated by the regulations. *New*.

34.—(1) Subject to the regulations, registration is not required in respect of the following trades: Exemption of trades

1. A trade by an executor, administrator, guardian or committee or by an authorized trustee or assignee, an interim or official receiver or a custodian under the *Bankruptcy Act* (Canada) or by a receiver under *The Judicature Act* or by a liquidator under *The Corporations Act*, *The Business Corporations Act*, or the *Winding-up Act* (Canada), or at a judicial sale. R.S.C. 1970, cc. B-3, W-10 R.S.O. 1970, cc. 228, 89, 53

2. An isolated trade in a specific security by or on behalf of the owner, for the owner's account, where such trade is not made in the course of continued and successive transactions of a like nature, and is not made by a person or company whose usual business is trading in securities.

3. A trade where the party purchasing as principal is,

R.S.C. 1970, cc. B-1, I-9

i. a bank to which the *Bank Act* (Canada) applies, or the Industrial Development Bank incorporated under the *Industrial Development Bank Act* (Canada),

R.S.O. 1970, c. 254

ii. a loan corporation or trust company registered under *The Loan and Trust Corporations Act*,

R.S.O. 1970, c. 224

iii. an insurance company licensed under *The Insurance Act*,

iv. Her Majesty in right of Canada or any province or territory of Canada,

v. any municipal corporation or public board or commission in Canada.

4. A trade where the party purchasing as principal is a person, other than an individual, or company recognized by the Commission as an exempt purchaser.

5. A trade where the purchaser purchases as principal, if the trade is in a security which has an aggregate acquisition cost to such purchaser of not less than $97,000.

6. A trade by or for the account of a pledgee, mortgagee or other encumbrancer for the purpose of liquidating a *bona fide* debt by selling or offering for sale a security pledged, mortgaged or otherwise encumbered in good faith as collateral for the debt.

7. A trade in a security that may occasionally be transacted by employees of a registered dealer where the employees do not usually sell securities and have been designated by the Director as non-trading employees, either individually or as a class.

8. A trade between a person or company and an underwriter acting as purchaser or between or among underwriters.

9. A trade in a security by a person or company acting solely through an agent who is a registered dealer.

10. A trade by an issuer,

    i. in a security of its own issue that is distributed by it to holders of its securities as a stock dividend or other distribution out of earnings or surplus,

    ii. in a security whether of its own issue or not that is distributed by it to holders of its securities as incidental to a statutory reorganization or winding-up of such issuer or distribution of its assets for the purpose of winding up its affairs, or

    iii. of its securities pursuant to the exercise of a right, transferable or otherwise, granted by the issuer to holders of its securities to purchase additional securities of its own issue if the issuer has given the Commission written notice stating the date, amount, nature and conditions of the proposed sale, including the approximate net proceeds to be derived by the issuer on the basis of such additional securities being fully taken up and paid for, and either,

        (*a*) the Commission has not informed the issuer in writing within ten days of the giving of such notice that it objects to the proposed sale; or

        (*b*) the issuer has delivered to the Commission information relating to the security that is satisfactory to, and accepted by, the Commission,

    provided that, with respect to any trade referred to in subclause i or ii, no commission or other remuneration is paid or given to others in respect of such distribution except for ministerial or professional services or for services performed by a registered dealer.

11. A trade in a security of a company that is exchanged by or for the account of such company with another company or the holders of the securities of that other company in connection with,

(*a*) a statutory amalgamation or arrangement; or

(*b*) any statutory procedure under which one company takes title to the assets of the other company which in turn loses its existence by operation of law, or under which the existing companies merge into a new company.

12. A trade in a security of a company that is exchanged by or for the account of such company with the security holders of another company in connection with a take-over bid as defined in Part XVIII.

13. A trade in a security of an issuer in connection with an exempt offer as defined in Part XVIII provided that the number of voting securities for which the offer is made together with the offeror's presently-owned securities will in the aggregate exceed 20 per cent of the outstanding voting securities of the company.

14. A trade by an issuer in a security of its own issue as consideration for a portion or all of the assets of any person or company, if the fair value of the assets so purchased is not less than $100,000.

15. A trade by an issuer in the securities of its own issue with its employees or the employees of an affiliate who are not induced to purchase by expectation of employment or continued employment.

16. The trade is made between an issuer in securities of its own issue and not more than fifteen purchasers and each of the following requirements is satisfied,

    i. each such purchaser shall purchase as principal,

    ii. each such purchaser shall,

        (*a*) be an experienced investor who, by virtue of his net worth and financial experience or by virtue of consultation with or advice from a registered adviser, is able to evaluate the prospective investment on the basis of information respecting the investment presented to him by the issuer and who has access

to substantially the same information concerning the issuer which the filing of a prospectus under this Act would provide; or

(*b*) be a senior officer or director of the issuer or his spouse, parent, brother, sister, or child,

iii. the offer and sale of the securities shall not be accompanied by an advertisement and no selling or promotional expenses shall have been given, paid or incurred in connection therewith,

iv. the solicitation in respect of the securities shall not have been made to more than twenty-five prospective purchasers, and

v. there shall not be more than fifteen holders of securities as a result of trades pursuant to this exemption.

17. A trade in respect of which the regulations provide that registration is not required.

(2) Subject to the regulations, registration is not required to trade in the following securities: Exemption re securities

1. Bond, debentures or other evidences of indebtedness,

(*a*) of or guaranteed by the Government of Canada or any province of Canada or by the Government of the United Kingdom or any foreign country or any political division thereof;

(*b*) of any municipal corporation in Canada, including debentures issued for public, separate, secondary or vocational school purposes, or guaranteed by any municipal corporation in Canada, or secured by or levied under the law of any province of Canada on property in such province and collectable by or through the municipality in which such property is situated;

(*c*) of or guaranteed by a bank to which the *Bank Act* (Canada) applies, a trust company or loan corporation registered under *The Loan and Trust Corporations Act* or an insurance company licensed under *The Insurance Act*, R.S.C. 1970, c. B-1 R.S.O. 1970, cc. 254, 224

including insurance contracts under which such insurance company guarantees to return on the termination of the policy an amount equal to at least three quarters of the premiums paid to the date of termination; or

(*d*) of or guaranteed by the International Bank for Reconstruction and Development established by the Agreement for an International Bank for Reconstruction and Development approved by the *Bretton Woods Agreements Act* (Canada), if the bonds, debentures, or evidences of indebtedness are payable in the currency of Canada or the United States of America.

R.S.C. 1970, c. B-9

2. Certificates or receipts issued by a trust company registered under *The Loan and Trust Corporations Act* for moneys received for guaranteed investment.

R.S.O. 1970, c. 254

3. Securities issued by a trust company registered under *The Loan and Trust Corporations Act* in respect of an account maintained by it solely to service a retirement savings plan registered under the *Income Tax Act* (Canada) or a pooled account for participation in which no solicitation is made.

1970-71, c. 63 (Can.)

4. Securities issued by an investment club if,

(*a*) its shares or units are held by not more than fifty persons;

(*b*) it does not pay or give any remuneration under a management contract or in respect of a trade in securities except normal brokerage fees; and

(*c*) all of its members are required to make contributions in proportion to the shares or units each holds for the purpose of financing its operations.

5. Negotiable promissory notes or commercial paper maturing not more than one year from the date of issue, provided that each such note or commercial paper traded to an individual has a denomination or principal amount of not less than $50,000.

6. Mortgages or other encumbrances upon real or personal property, other than mortgages or other encumbrances contained in or secured by a bond,

debenture or similar obligation or in a trust deed or other instrument to secure bonds or debentures or similar obligations, if such mortgages or other encumbrances are not offered for sale to the public except by a person or company registered under *The Real Estate and Business Brokers Act* or *The Mortgage Brokers Act.* R.S.O. 1970, cc. 401, 278

7. Securities evidencing indebtedness due under any conditional sales contract or other title retention contract providing for the acquisition of personal property if such securities are not offered for sale to the public.

8. Securities issued by an issuer organized exclusively for educational, benevolent, fraternal, charitable, religious or recreational purposes and not for profit, where no part of the net earnings of such issuer enure to the benefit of any security holder and no commission or other remuneration is paid in connection with the sale thereof.

9. Securities issued by corporations to which *The Co-operative Corporations Act, 1973* applies. 1973, c. 101

10. Shares of a credit union within the meaning of *The Credit Unions Act.* R.S.O. 1970, c. 96

11. Securities of a private company issued by the private company if the securities are not offered for sale to the public.

12. Securities issued and sold by a prospector for the purpose of financing a prospecting expedition.

13. Securities issued by a prospecting syndicate that has filed a prospecting syndicate agreement under Part XII for which the Director has issued a receipt, where such securities are sold by the prospector or one of the prospectors who staked claims that belong to or are the subject of a declaration of trust in favour of the prospecting syndicate, and the prospector delivers the copy of the prospecting syndicate agreement to the person or company purchasing the security before accepting payment therefor.

14. Securities issued by a prospecting syndicate that has filed a prospecting syndicate agreement under Part XII for which the Director has issued a receipt, if such securities are not offered for sale to the public and are sold to not more than fifty persons or companies.

15. Securities issued by a mining company or a mining exploration company as consideration for mining claims where the vendor enters into such escrow or pooling agreement as the Director considers necessary.

16. Securities in respect of which the regulations provide that registration is not required. R.S.O. 1970, c. 426, s. 19 (1, 2); 1971, c. 31, s. 3, *amended*.

Removal of exemption

(3) Notwithstanding subsections 1 and 2, the Commission may, where in its opinion such action is in the public interest,

(*a*) order that subsection 1 does not, with respect to such of the trades referred to in that subsection as are specified in the order, apply to the person or company named in the order;

(*b*) order that subsection 2 does not, with respect to such of the securities referred to in that subsection as are specified in the order, apply to the person or company named in the order.

Hearing

(4) No order shall be made under subsection 3 without a hearing, unless in the opinion of the Commission the length of time required for a hearing could be prejudicial to the public interest, in which event a temporary order may be made which shall expire fifteen days from the date of the making thereof unless the hearing is commenced in which case the Commission may extend the order until the hearing is concluded.

Notice

(5) Notice of a temporary order made under subsection 4 shall be given forthwith together with the notice of the hearing under subsection 4 to every person or company that in the opinion of the Commission is directly affected thereby. R.S.O. 1970, c. 426, s. 19 (6, 7).

PART XI

TRADING IN SECURITIES GENERALLY

Confirmation of trade

35.—(1) Every registered dealer who has acted as principal or agent in connection with any trade in a security shall promptly send by prepaid mail or deliver to the customer a written confirmation of the transaction, setting forth,

(*a*) the quantity and description of the security;

(*b*) the consideration;

(*c*) whether or not the registered dealer is acting as principal or agent;

(*d*) if acting as agent in a trade, the name of the person or company from or to or through whom the security was bought or sold;

(*e*) the date and the name of the stock exchange, if any, upon which the transaction took place;

(*f*) the commission, if any, charged in respect of the trade; and

(*g*) the name of the salesman, if any, in the transaction. R.S.O. 1970, c. 426, s. 67 (1).

Idem

(2) Where a trade is made in a security of a mutual fund the confirmation shall contain, in addition to the requirements of subsection 1,

(*a*) the price per share or unit at which the trade was effected;

(*b*) the amount deducted by way of sales charges or services fees and, separately stated, any other deductions; and

(*c*) the fees payable upon redemption or surrender, if any.

Idem

(3) Where a trade is made in a security of a mutual fund under a contractual plan, the confirmation shall contain in addition to the requirements of subsections 1 and 2,

(*a*) in respect of an initial payment made under a contractual plan which requires the prepayment of sales charges, a statement of the initial payment and the portion of the sales charges that is allocated to subsequent investments in the mutual fund and the manner of allocation thereof;

(*b*) in respect of each subsequent payment made under a contractual plan which requires the prepayment of sales charges, a statement of the portion of the sales charges that is allocated to the payment which is the subject of the confirmation;

(*c*) in respect of an initial purchase made under a contractual plan which permits the deduction of sales charges from the first and subsequent instalments, a brief statement of the sales charges to be deducted from subsequent purchases;

(*d*) in respect of each purchase made under a contractual plan, a statement of the total number of shares or units of the mutual fund acquired and the amount of sales charges paid under the contractual plan up to the date the confirmation is sent or delivered. *New*.

Coded identification

(4) For the purposes of clauses *d* and *g* of subsection 1, a person or company or a salesman may be identified in a written confirmation by means of a code or symbols if the written confirmation also contains a statement that the name of the person, company or salesman will be furnished to the customer on request.

Filing of code

(5) Where a person or company uses a code or symbols for identification in a confirmation under subsection 1, the person or company shall forthwith file the code or symbols and their meaning, and shall notify the Commission within five days of any change in or addition to the code or symbols or their meaning. R.S.O. 1970, c. 426, s. 67 (2, 3).

Disclosure by agent

(6) Every dealer who has acted as agent in connection with any trade in a security shall promptly disclose to the Commission, upon request by the Commission, the name of the person or company from or to or through whom the security was bought or sold. R.S.O. 1970, c. 426, s. 67 (4), *amended*.

Order prohibiting calls to residences

36.—(1) The Director may, by order, suspend, cancel, restrict or impose terms and conditions upon the right of any person or company named in the order to,

(*a*) call at any residence; or

(*b*) telephone from within Ontario to any residence within or outside Ontario,

for the purpose of trading in any security. R.S.O. 1970, c. 426, s. 68 (1), *amended*.

Hearing

(2) The Director shall not make an order under subsection 1 without giving the person or company affected an opportunity to be heard. *New*.

"residence" defined

(3) In this section, "residence" includes any building or part of a building in which the occupant resides either permanently or temporarily and any premises appurtenant thereto.

What constitutes calls

(4) For the purposes of this section, a person or company shall be deemed conclusively to have called or telephoned

where an officer, director or salesman of the person or company calls or telephones on its behalf. R.S.O. 1970, c. 426, s. 68 (3, 4).

37.—(1) No person or company, with the intention of effecting a trade in a security, other than a security that carries an obligation of the issuer to redeem or purchase, or a right of the owner to require redemption, shall make any representation, written or oral, that he or any person or company, **Representations prohibited**

(*a*) will resell or repurchase; or

(*b*) will refund all or any of the purchase price of,

such security.

(2) No person or company, with the intention of effecting a trade in a security, shall give any undertaking, written or oral, relating to the future value or price of such security. **Future value**

(3) No person or company, with the intention of effecting a trade in a security, shall, except with the written permission of the Director, make any representation, written or oral, that such security will be listed on any stock exchange or that application has been or will be made to list such security upon any stock exchange. **Listing**

(4) This section does not apply to any representation referred to in subsection 1 made to a person, other than an individual, or to a company where the representation is contained in a written agreement signed by the person or company intending to effect a trade in a security and the security has an aggregate acquisition cost of more than $50,000. R.S.O. 1970, c. 426, s. 69. **Application of section**

38.—(1) Where a registered dealer, with the intention of effecting a trade in a security with any person or company other than another registered dealer, issues, publishes or sends a circular, pamphlet, letter, telegram or advertisement, and proposes to act in such trade as a principal, such registered dealer shall so state in the circular, pamphlet, letter, telegram or advertisement or otherwise in writing before entering into a contract for the sale or purchase of any such security and before accepting payment or receiving any security or other consideration under or in anticipation of any such contract. R.S.O. 1970, c. 426, s. 70 (1). **Where dealer is principal**

(2) A statement made in compliance with this section or clause *c* of subsection 1 of section 35 that a dealer proposes **Effect of statement**

to act or has acted as principal in connection with a trade in a security does not prevent such dealer from acting as agent in connection with a trade of such security.

Application of section

(3) This section does not apply to trades referred to in subsection 1 of section 34 or to securities referred to in subsection 2 of section 34. R.S.O. 1970, c. 426, s. 70 (3, 4).

Disclosure of financial interest of advisers and dealers

39. Every adviser and dealer shall cause to be printed in a conspicuous position on every circular, pamphlet, advertisement, letter, telegram and other publication issued, published or sent out by him, in type not less legible than that used in the body of the circular, pamphlet, advertisement, letter or other publication, a full and complete statement of any financial or other interest that he or any partner, director, officer or a person or company that would be an insider of the adviser or dealer if the adviser or dealer was a reporting issuer may have either directly or indirectly in any securities referred to therein or in the sale or purchase thereof, including,

(*a*) any ownership, beneficial or otherwise, that any of them may have in respect of such securities or in any securities issued by the same issuer;

(*b*) any option that any of them may have in respect of such securities, and the terms thereof;

(*c*) any commission or other remuneration that any of them has received or may expect to receive from any person or company in connection with any trade in such securities;

(*d*) any financial arrangement relating to such securities that any of them may have with any person or company; and

(*e*) any financial arrangement that any of them may have with any underwriter or other person or company who has any interest in the securities. R.S.O. 1970, c. 426, s. 72, *amended*.

Publication of names

40. Every registered dealer shall publish the name of every person or company having an interest, either directly or indirectly, to the extent of not less than 5 per cent in the capital of the dealer, on all letterheads, circulars and stationery that contain any offer or solicitation respecting a trade in securities or in a preliminary prospectus or prospectus upon or in which the name of the registered dealer appears as underwriter. R.S.O. 1970, c. 426, s. 73, *amended*.

41. No registrant shall use the name of another registrant on letterheads, forms, advertisements or signs, as correspondent or otherwise, unless he is a partner, officer or agent of or is authorized so to do in writing by the other registrant. R.S.O. 1970, c. 426, s. 74.

Use of name of another registrant

42. No person or company shall hold himself out as being registered by having printed in a circular, pamphlet, advertisement, letter, telegram or other stationery that he is registered. R.S.O. 1970, c. 426, s. 75.

Registration not to be advertised

43. No person or company who is not registered shall, either directly or indirectly, hold himself out as being registered. R.S.O. 1970, c. 426, s. 76.

Holding out by unregistered person

44. No person or company shall make any representation, written or oral, that the Commission has in any way passed upon the financial standing, fitness or conduct of any registrant or upon the merits of any security or issuer. R.S.O. 1970, c. 426, s. 77.

Advertising approval by Commission

45.—(1) Where a person, or a partner or employee of a partnership, or a director, officer or employee of a company, after he or the partnership or company has contracted as a registered dealer with any customer to buy and carry upon margin any securities of any issuer either in Canada or elsewhere, and while such contract continues, sells or causes to be sold securities of the same issuer for any account in which,

Margin contracts

(*a*) he;

(*b*) his firm or a partner thereof; or

(*c*) the company or a director thereof,

has a direct or indirect interest, if the effect of such sale would, otherwise than unintentionally, be to reduce the amount of such securities in the hands of the dealer or under his control in the ordinary course of business below the amount of such securities that the dealer should be carrying for all customers any such contract with a customer is, at the option of the customer, void, and the customer may recover from the dealer all moneys paid with interest thereon or securities deposited in respect thereof.

(2) The customer may exercise such option by a notice to that effect sent by prepaid mail addressed to the dealer at his address for service in Ontario. R.S.O. 1970, c. 426, s. 78.

Exercise of option

Declaration as to short position

46. Any person or company who places an order for the sale of a security through an agent acting for him that is a registered dealer and, who,

(*a*) at the time of placing the order, does not own the security; or

(*b*) if acting as agent, knows his principal does not own the security,

shall, at the time of placing the order to sell, declare to his agent that he or his principal, as the case may be, does not own the security. R.S.O. 1970, c. 426, s. 79.

Shares in name of registrant not to be voted

47.—(1) Subject to subsection 3, voting securities of an issuer registered in the name of,

(*a*) a registrant or in the name of his nominee; or

(*b*) a custodian or in the name of his nominee, where such issuer is a mutual fund,

that are not beneficially owned by the registrant or the custodian, as the case may be, shall not be voted by the registrant or custodian at any meeting of security holders of the issuer.

Forwarding of information by registrant

(2) Forthwith after receipt of a copy of a notice of a meeting of security holders of an issuer, the financial statements, the information circular and any other material sent to security holders by or on behalf of any person or company for use in connection with the meeting, the registrant or custodian shall, where the name and address of the beneficial owner of securities registered in the name of the registrant or custodian are known, send or deliver to each beneficial owner of such security at no expense to such beneficial owner, a copy of such notice, statements, circular and other material. R.S.O. 1970, c. 426, s. 80 (1), *amended*.

Copies of information

(3) At the request of a registrant or custodian, the person or company sending material referred to in subsection 2 shall forthwith furnish to the registrant or custodian the requisite number of copies of the material at the person's or company's expense.

Voting of shares

(4) A registrant or custodian shall vote or give a proxy requiring a nominee to vote any voting securities referred to in subsection 1 in accordance with any written voting instructions received from the beneficial owner.

(5) A registrant or custodian shall, if requested by a beneficial owner, give to the beneficial owner or his nominee a proxy enabling the beneficial owner or his nominee to vote any voting securities referred to in subsection 1. R.S.O. 1970, c. 426, s. 80 (3-5). Proxies

(6) For the purpose of this section, "custodian" means a custodian of securities of a mutual fund under a custodial agreement or other arrangement with a person or company engaged in, or administering a contractual plan in relation to, the distribution of securities of the mutual fund. *New.* "custodian" defined

48.—(1) Subject to subsections 2 and 3, no registered dealer shall purchase or sell shares or units of a mutual fund except in accordance with the terms of an agreement between such registered dealer and a person or company selling such shares or units under a distribution contract. Sale of mutual fund shares

(2) The Commission may, upon application of a distribution company, order that the prohibition contained in subsection 1 shall not apply in respect of the shares or units of a mutual fund mentioned in the order, where it is satisfied that adequate arrangements have been made, Exemption by Commission

(*a*) to permit the distribution company to carry out adequately its responsibilities relating to the distribution of such shares or units;

(*b*) by the distribution company to prevent dealers in the shares or units of the mutual fund from taking undue advantage of the availability of the right to redeem the shares or units of the mutual fund; and

(*c*) to facilitate enforcement of the penalty prescribed by the regulations for the early redemption of shares or units of the mutual fund in a transaction in which the total consideration paid or to be paid by the purchaser for the shares or units is more than the sum of $50,000.

(3) Subsection 1 does not apply to the shares or units of a mutual fund in respect of which a prospectus has not been filed and a receipt therefor issued by the Director. *New.* Application of subs. 1

49.—(1) The Commission may, after giving the registered dealer an opportunity to be heard, order that a registered dealer shall deliver to the Commission at least seven days before it is used, copies of all advertising and sales literature which such registered dealer proposes to use in connection with trading in securities. Submission of advertising

Interpretation

(2) For the purposes of this section,

(*a*) "advertising" includes television and radio commercials, newspaper and magazine advertisements and all other sales material generally disseminated through the communications media;

(*b*) "sales literature" includes records, videotapes and similar material, written matter and all other material, except preliminary prospectuses and prospectuses, designed for use in a presentation to a purchaser, whether such material is given or shown to him.

Prohibition of advertising

(3) Where the Commission has issued an order pursuant to subsection 1, the Director may prohibit the use of the advertising and sales literature so delivered or may require that deletions or changes be made prior to its use.

Rescission or variation of order

(4) Where an order has been made pursuant to subsection 1, the Commission, on application at any time after the expiration of six months from the date thereof, may rescind or vary the order where in its opinion it is not contrary to the public interest to do so. *New.*

Retail price maintenance

50.—(1) Subject to subsection 2, no distribution company shall, by any device or arrangement, whether oral or in writing, prevent or attempt to prevent any registrant, excepting one of its salesmen, where it is a dealer, from reducing any portion of sales charges that is payable to such registrant upon the sale by such registrant of securities of the mutual fund if the sole purpose of the reduction is to enable the purchaser to purchase the securities at a proportionately lower price.

Refusal to sell through dealer

(2) A distribution company may refuse to sell the securities of the mutual fund to or through any dealer if the distribution company has reasonable cause to believe and does believe,

(*a*) that such dealer intends to operate a secondary market in the securities of the mutual fund;

(*b*) that such dealer was making a practice of using securities of the mutual fund supplied by it not for the purpose of making a profit thereon, but for the purpose of advertising;

(*c*) that such dealer was making a practice of using securities of the mutual fund supplied by it not for the purpose of selling them at a profit but for the purpose of attracting clients in the hope of selling them other securities;

(*d*) that such dealer was making a practice of engaging in misleading advertising in respect of the securities of the mutual fund supplied by it; or

(*e*) that such dealer made a practice of not providing the level of servicing that purchasers of the securities of the mutual fund might reasonably expect from such dealer. *New.*

PART XII

PROSPECTING SYNDICATES

Agreements

51.—(1) Upon the filing of a prospecting syndicate agreement and the issuance of a receipt therefor by the Director, the liability of the members of the syndicate or parties to the agreement is limited to the extent provided by the terms of the agreement where,

(*a*) the sole purpose of the syndicate is the financing of prospecting expeditions, preliminary mining development, or the acquisition of mining properties, or any combination thereof;

(*b*) the agreement clearly sets out,

(i) the purpose of the syndicate,

(ii) the particulars of any transaction effected or in contemplation involving the issue of units for a consideration other than cash,

(iii) the maximum amount, not exceeding 25 per cent of the sale price, that may be charged or taken by a person or company as commission upon the sale of units in the syndicate,

(iv) the maximum number of units in the syndicate, not exceeding 33⅓ per cent of the total number of units of the syndicate, that may be issued in consideration of the transfer to the syndicate of mining properties,

(v) the location of the principal office of the syndicate and that the principal office shall at all times be maintained in Ontario and that the Director and the members of the syndicate shall be notified immediately of any change in the location of the principal office,

(vi) that a person or company holding mining properties for the syndicate shall execute a declaration of trust in favour of the syndicate with respect to such mining properties,

(vii) that after the sale for cash of any issued units of the syndicate no mining properties shall be acquired by the syndicate other than by staking unless such acquisition is approved by members of the syndicate holding at least two-thirds of the issued units of the syndicate that have been sold for cash,

(viii) that the administrative expenditures of the syndicate, including, in addition to any other items, salaries, office expenses, advertising and commissions paid by the syndicate with respect to the sale of its units, shall be limited to one-third of the total amount received by the treasury of the syndicate from the sale of its units,

(ix) that a statement of the receipts and disbursements of the syndicate shall be furnished to the Director and to each member annually,

(x) that 90 per cent of the vendor units of the syndicate shall be escrowed units and may be released upon the consent of the Director and that any release of such units shall not be in excess of one vendor unit for each unit of the syndicate sold for cash,

(xi) that no securities, other than those of the syndicate's own issue, and no mining properties owned by the syndicate or held in trust for the syndicate shall be disposed of unless such disposal is approved by members of the syndicate holding at least two-thirds of the issued units of the syndicate other than escrowed units; and

(*c*) the agreement limits the capital of the syndicate to a sum not exceeding $100,000.

Receipt for filed agreement

(2) The Director may in his discretion issue a receipt for a prospecting syndicate agreement filed under this section and is not required to determine whether it is in conformity with clauses *a*, *b* and *c* of subsection 1.

(3) After a receipt is issued by the Director for a prospecting syndicate agreement, the requirements of *The Partnerships Registration Act* as to filing do not apply to the prospecting syndicate. Application of R.S.O. 1970, c. 340

(4) No registered dealer shall trade in a security issued by a prospecting syndicate either as agent for the prospecting syndicate or as principal. R.S.O. 1970, c. 426, s. 34, *amended*. Prohibition of trading by dealer

PART XIII

PROSPECTUSES—DISTRIBUTION

52.—(1) No person or company shall trade in a security on his own account or on behalf of any other person or company where such trade would be a distribution of such security unless a preliminary prospectus and a prospectus have been filed and receipts therefor obtained from the Director. R.S.O. 1970, c. 426, s. 35 (1), *amended*. Prospectus required

(2) A preliminary prospectus and a prospectus may be filed in accordance with this Part to enable the issuer to become a reporting issuer, notwithstanding the fact that no distribution is contemplated. *New*. Filing without distribution

53.—(1) A preliminary prospectus shall substantially comply with the requirements of this Act and the regulations respecting the form and content of a prospectus, except that the report or reports of the auditor or accountant required by the regulations need not be included. Preliminary prospectus

(2) A preliminary prospectus may exclude information with respect to the price to the underwriter and offering price of any securities and other matters dependent upon or relating to such prices. R.S.O. 1970, c. 426, s. 38, *amended*. Idem

54. The Director shall issue a receipt for a preliminary prospectus forthwith upon the filing thereof. R.S.O. 1970, c. 426, s. 35 (2). Receipt for preliminary prospectus

55.—(1) A prospectus shall provide full, true, and plain disclosure of all material facts relating to the securities issued or proposed to be distributed and shall comply with the requirements of this Act and the regulations. Prospectus

(2) The prospectus shall contain or be accompanied by such financial statements, reports, or other documents as are required by this Act or the regulations. R.S.O. 1970, c. 426, s. 41, *amended*. Supplemental material

Amendment to preliminary prospectus on material change

56.—(1) Where a material change occurs after the date of the receipt for a preliminary prospectus and prior to the completion of distribution of a security, an amendment to the preliminary prospectus or to the prospectus, as the case may be, shall be filed as soon as practicable, and in any event within ten days after the date the change occurs.

Notice of amendment

(2) An amendment to a preliminary prospectus referred to in subsection 1 shall, forthwith after it has been filed, be forwarded to each recipient of the preliminary prospectus according to the record maintained under section 65. R.S.O. 1970, c. 426, s. 40 (2, 3), *amended*.

Certificate by issuer

57.—(1) Subject to subsection 2, a prospectus shall contain a certificate in the following form, signed by the chief executive officer, the chief financial officer, and, on behalf of the board of directors, any two directors of the issuer, other than the foregoing, duly authorized to sign, and any person or company who is a promoter of the issuer:

> *The foregoing constitutes full, true and plain disclosure of all material facts relating to the securities issued, or proposed to be distributed under this prospectus, as required by Part XIII of The Securities Act, 1974 and the regulations thereunder.*

Idem

(2) Where the issuer has only three directors, two of whom are the chief executive officer and the chief financial officer, the certificate may be signed by all the directors of the issuer.

Idem

(3) Where the Director is satisfied upon evidence or submissions made to him that either, or both of, the chief executive officer or chief financial officer of the issuer is for adequate cause not available to sign a certificate in a prospectus, the Director may permit the certificate to be signed by any other responsible officer or officers of the issuer in lieu of either, or both of, the chief executive officer or chief financial officer.

Idem

(4) With the consent of the Director, a promoter need not sign the certificate in a prospectus.

Certificate of promoter

(5) The Director may, in his discretion, require any person or company who was a promoter of the issuer within the two preceding years to sign the certificate required by subsection 1 subject to such conditions as the Director may consider proper.

Idem

(6) With the consent of the Director, a promoter may sign a certificate in a prospectus by his agent duly authorized in writing. R.S.O. 1970, c. 426, s. 52, *amended*.

58.—(1) Where there is an underwriter, a prospectus shall contain a certificate in the following form, signed by the underwriter or underwriters who, with respect to the securities offered by the prospectus, are in a contractual relationship with the person or company whose securities are being offered by the prospectus: Certificate of underwriter

To the best of our knowledge, information and belief, the foregoing constitutes full, true and plain disclosure of all material facts relating to the securities offered by this prospectus as required by Part XIII of The Securities Act, 1974 and the regulations thereunder.

(2) With the consent of the Director, an underwriter may sign a certificate in a prospectus by his agent duly authorized in writing. R.S.O. 1970, c. 426, s. 53. Idem

59. Every prospectus shall contain a statement of the rights given to a purchaser by sections 69 and 123. R.S.O. 1970, c. 426, ss. 64 (9), 65 (8), *amended*. Statement of rights

60.—(1) Subject to subsection 2, the Director shall issue a receipt for a prospectus filed under this Part unless it appears to him that it is not in the public interest to do so. Issuance of receipt

(2) The Director shall not issue a receipt for a prospectus if it appears to him that, Refusal of receipt

(*a*) the prospectus or any document required to be filed therewith,

(i) fails to comply in any substantial respect with any of the requirements of this Part or the regulations,

(ii) contains any statement, promise, estimate or forecast that is misleading, false or deceptive, or

(iii) contains a misrepresentation;

(*b*) an unconscionable consideration has been paid or given or is intended to be paid or given for promotional purposes or for the acquisition of property;

(*c*) the proceeds from the sale of the securities to which the prospectus relates that are to be paid into the treasury of the issuer, together with other resources of the issuer, are insufficient to accomplish the purpose of the issue stated in the prospectus;

(*d*) having regard to the financial condition of the issuer or an officer, director, promoter, or a person or company or combination of persons or companies holding sufficient of the securities of the issuer to affect materially the control of such issuer, the issuer cannot reasonably be expected to be financially responsible in the conduct of its business;

(*e*) the past conduct of the issuer or an officer, director, promoter, or a person or company or combination of persons or companies holding sufficient of the securities of the issuer to affect materially the control of such issuer affords reasonable grounds for belief that the business of the issuer will not be conducted in accordance with law and with integrity;

(*f*) such escrow or pooling agreement as the Director considers necessary or advisable with respect to securities has not been entered into;

(*g*) such agreement as the Director deems necessary or advisable to accomplish the objects indicated in the prospectus for the holding in trust of the proceeds payable to the issuer from the sale of the securities pending the distribution of such securities has not been entered into;

(*h*) in the case of a prospectus filed by a finance company, as defined in the regulations,

(i) the plan of distribution of the securities offered is not acceptable,

(ii) the securities offered are not secured in such manner, on such terms and by such means as are required by the regulations,

(iii) such finance company does not meet such financial and other requirements and conditions as are specified in the regulations, or

(iv) a person or company who has prepared or certified any part of the prospectus or is named as having prepared or certified a report or valuation used in or in connection with a prospectus is not acceptable to him.

Hearing

(3) The Director shall not refuse to issue a receipt under subsection 1 or 2 without giving the person or company who filed the prospectus an opportunity to be heard. R.S.O. 1970, c. 426, s. 61 (1, 2); 1971, c. 31, s. 16, *amended*.

61.—(1) No distribution of a security shall continue longer than twelve months from either, Refiling of prospectus

(*a*) the date of the issuance of the receipt for the preliminary prospectus relating to such security; or

(*b*) the date of the last prospectus filed under this section,

as the case may be, unless a new prospectus that complies with this Part is filed and a receipt therefor is obtained from the Director. R.S.O. 1970, c. 426, s. 56; 1971, c. 31, s. 11, *amended*.

(2) A distribution may be continued for a further twelve months if, Idem

(*a*) a *pro forma* prospectus prepared in accordance with the regulations is filed not less than thirty days prior to the lapse date of the previous prospectus;

(*b*) a prospectus is filed not later than ten days following the lapse date of the previous prospectus; and

(*c*) a receipt for the prospectus is obtained from the Director within the twenty days following the lapse date of the previous prospectus.

(3) Where any of the conditions to the continuation of a distribution under subsection 2 are not complied with, all trades completed in reliance upon subsection 2 after the lapse date may be cancelled at the option of the purchaser within ninety days of the purchaser's first knowledge of the failure to comply with such conditions. Failure to refile

(4) The Commission may, upon an application of a reporting issuer made prior to the lapse date of a prospectus, extend, subject to such terms and conditions as it may impose, the times provided by subsection 2 where in its opinion it would not be prejudicial to the public interest to do so. *New*. Extension of time

62.—(1) No dealer shall engage in the distribution of a security to which section 52 or 61 is applicable until such dealer has notified the Commission in writing of his intention to engage in such distribution. Notice to Commission of distribution to public

(2) Every dealer shall forthwith notify the Commission in writing when he has ceased to engage in the distribution of a security to which section 52 or 61 is applicable. R.S.O. 1970, c. 426, s. 54, *amended*. Notice of Commission of cessation of distribution to public

Orders to furnish information re distribution to public

63.—(1) Where a person or company proposing to make a distribution of previously issued securities of an issuer is unable to obtain from the issuer of such securities information or material that is necessary for the purpose of complying with this Part or the regulations, the Director may order the issuer of such securities to furnish to the person or company that proposes to make the distribution such information and material as the Director considers necessary for the purposes of the distribution, upon such terms and subject to such conditions as he considers proper, and all such information and material may be used by the person or company to whom it is furnished for the purpose of complying with this Part and the regulations.

Idem

(2) Where a person or company proposing to make a distribution of previously issued securities of an issuer is unable to obtain any or all of the signatures to the certificates required by this Act or the regulations, or otherwise to comply with this Part or the regulations, the Director may, upon being satisfied that all reasonable efforts have been made to comply with this Part and the regulations and that no person or company is likely to be prejudicially affected by such failure to comply, make such order waiving any of the provisions of this Part or the regulations as he considers advisable, upon such terms and subject to such conditions as he considers proper. R.S.O. 1970, c. 426, s. 60, *amended*.

PART XIV

DISTRIBUTION—GENERALLY

"waiting period" defined

64.—(1) In this section, "waiting period" means the interval, which shall be at least ten days, between the issuance by the Director of a receipt for a preliminary prospectus relating to the offering of a security and the issuance by him of a receipt for the prospectus.

Distribution of material during waiting period

(2) Notwithstanding section 52, but subject to Part XI, it is permissible during the waiting period,

(*a*) to distribute a notice, circular, advertisement or letter to or otherwise communicate with any person or company identifying the security proposed to be issued, stating the price thereof, if then determined, the name and address of a person or company from whom purchases of the security may be made and containing such further information as may be permitted or required by the regulations, if every such notice, circular, advertisement, letter or other

communication states the name and address of a person or company from whom a preliminary prospectus may be obtained;

(*b*) to distribute a preliminary prospectus; and

(*c*) to solicit expressions of interest from a prospective purchaser if, prior to such solicitation or forthwith after the prospective purchaser indicates an interest in purchasing the security, a copy of the preliminary prospectus is forwarded to him. R.S.O. 1970, c. 426, s. 36.

Distribution of preliminary prospectus

65. Any dealer distributing a security to which section 64 applies shall send a copy of the preliminary prospectus to each prospective purchaser who indicates an interest in purchasing the security either prior to or forthwith after such indication and shall maintain a record of the names and addresses of all persons and companies to whom the preliminary prospectus has been sent. R.S.O. 1970, c. 426, s. 37, *amended*.

Defective preliminary prospectus

66. Where it appears to the Director that a preliminary prospectus is defective in that it does not substantially comply with the requirements of this Act and the regulations as to form and content, he may, without giving notice, order that the trading permitted by subsection 2 of section 64 in the security to which the preliminary prospectus relates shall cease until a revised preliminary prospectus satisfactory to the Director is filed and forwarded to each recipient of the defective preliminary prospectus according to the record maintained under section 65. R.S.O. 1970, c. 426, s. 40 (1).

Material given on distribution

67. From the date of the issuance by the Director of a receipt for a prospectus relating to a security, a person or company trading in the security in a distribution, either on his own account or on behalf of any other person or company, may distribute the prospectus, any document filed with or referred to in the prospectus and any notice, circular, advertisement or letter of the nature permitted in clause *a* of subsection 2 of section 64 or in the regulations, but shall not distribute any other printed or written material respecting the security. R.S.O. 1970, c. 426, s. 57; 1971, c. 31, s. 12.

Order to cease trading

68.—(1) Where it appears to the Commission, after the filing of a prospectus under this Part and the issuance of a receipt therefor, that any of the circumstances set out in subsection 2 of section 60 exist, the Commission may order that the distribution of the securities under the prospectus shall cease.

Hearing

(2) No order shall be made under subsection 1 without a hearing unless in the opinion of the Commission the length of time required for a hearing could be prejudicial to the public interest, in which event a temporary order may be made which shall expire fifteen days from the date of the making thereof unless the hearing is commenced in which case the Commission may extend the order until the hearing is concluded.

Notice

(3) A notice of every order made under this section shall be served upon the issuer to whose securities the prospectus relates and upon every dealer who has notified the Commission of his intention to engage in the distribution of the securities, and forthwith upon the receipt of the notice,

(*a*) distribution of the securities under prospectus by the person or company named in the order shall cease; and

(*b*) any receipt issued by the Director for the prospectus is revoked. R.S.O. 1970, c. 426, s. 62; 1971, c. 31, s. 17, *amended*.

Obligation to deliver prospectus

69.—(1) A dealer not acting as agent of the purchaser who receives an order or subscription for a security offered in a distribution to which subsection 1 of section 52 or section 61 is applicable shall, unless he has previously done so, send by prepaid mail or deliver to the purchaser the latest prospectus and any amendment to the prospectus filed either before entering into an agreement of purchase and sale resulting from the order or subscription or not later than midnight on the second day, exclusive of Saturdays, Sundays, and holidays, after entering into such agreement.

Withdrawal from purchase

(2) An agreement of purchase and sale referred to in subsection 1 is not binding upon the purchaser, if the dealer from whom the purchaser purchases the security receives written or telegraphic notice evidencing the intention of the purchaser not to be bound by the agreement of purchase and sale not later than midnight on the second day, exclusive of Saturdays, Sundays, and holidays, after receipt by the purchaser of the latest prospectus and any amendment to the prospectus.

Application of subs. 2

(3) Subsection 2 does not apply if the purchaser is a registrant or if the purchaser sells or otherwise transfers beneficial ownership of the security referred to in subsection 2, otherwise than to secure indebtedness, before the expiration of the time referred to in subsection 2.

(4) For the purpose of this section where the latest prospectus and any amendment to the prospectus is sent by prepaid mail, the latest prospectus and any amendment to the prospectus shall be deemed conclusively to have been received in the ordinary course of mail by the person or company to whom it was addressed. Time of receipt

(5) The receipt of the latest prospectus or any amendment to the prospectus by a dealer who is acting as agent of or who thereafter commences to act as agent of the purchaser with respect to the purchase of a security referred to in subsection 1 shall, for the purpose of this section, be receipt by the purchaser as of the date on which the agent received such latest prospectus and any amendment to the prospectus. Receipt of prospectus by agent

(6) The receipt of the notice referred to in subsection 2 by a dealer who acted as agent of the vendor with respect to the sale of the security referred to in subsection 1 shall, for the purpose of this section, be receipt by the vendor as of the date on which the agent received such notice. Receipt of notice by agent

(7) For the purpose of this section, a dealer shall not be considered to be acting as agent of the purchaser unless the dealer is acting solely as agent of the purchaser with respect to the purchase and sale in question and has not received and has no agreement to receive compensation from or on behalf of the vendor with respect to the purchase and sale. Dealer as agent

(8) The onus of proving that the time for giving notice under subsection 2 has expired is upon the dealer from whom the purchaser has agreed to purchase the security. R.S.O. 1970, c. 426, s. 64; 1971, c. 31, s. 19, *amended*. Onus of proof

PART XV

EXEMPTIONS FROM PROSPECTUS REQUIREMENTS

70.—(1) Subject to the regulations, section 52 does not apply to a distribution where, Prospectus not required

(*a*) the purchaser is,

(i) a bank to which the *Bank Act* (Canada) or the *Industrial Development Bank Act* (Canada) applies, R.S.C. 1970, cc. B-1, I-9

(ii) a loan corporation or trust company registered under *The Loan and Trust Corporations Act*, R.S.O. 1970, c. 254

R.S.O. 1970, c. 224

(iii) an insurance company licensed under *The Insurance Act*,

(iv) Her Majesty in right of Canada or any province or territory of Canada,

(v) any municipal corporation or public board or commission in Canada, or

(vi) a person, other than an individual, or company recognized by the Commission as an exempt purchaser,

who purchases as principal;

(*b*) the purchaser purchases as principal, if the trade is in a security which has an aggregate acquisition cost to such purchaser of not less than $97,000;

(*c*) the trade is to a pledgee, mortgagee, or other encumbrancer for the purpose of giving collateral for a *bona fide* debt;

(*d*) the trade is made by an issuer,

(i) in a security of its own issue that is distributed by it to holders of its securities as a stock dividend or other distribution out of earnings or surplus,

(ii) in a security whether of its own issue or not that is distributed by it to holders of its securities as incidental to a statutory reorganization or winding up of such issuer or distribution of its assets for the purpose of winding up its affairs, or

(iii) of its securities pursuant to the exercise of a right, transferable or otherwise, granted by the issuer to holders of its securities to purchase additional securities of its own issue if it has given the Commission written notice stating the date, amount, nature and conditions of the proposed sale, including the approximate net proceeds to be derived by the issuer on the basis of such additional securities being fully taken up and paid for, and either,

a. the Commission has not informed the issuer in writing within ten days of

the giving of such notice that it objects to the proposed trade, or

b. the issuer has delivered to the Commission information relating to the securities that is satisfactory to, and accepted by, the Commission,

provided that, with respect to any trade referred to in subclause i or ii, no commission or other remuneration is paid or given to others in respect of such distribution except for ministerial or professional services or for services performed by a registered dealer;

(*e*) the trade is made in a security of a company that is exchanged by or for the account of such company with another company or the holders of the securities of that other company in connection with,

(i) a statutory amalgamation or arrangement, or

(ii) a statutory procedure under which one company takes title to the assets of the other company which in turn loses its existence by operation of law, or under which the existing companies merge in a new company;

(*f*) the trade is made in a security of a company that is exchanged by or for the account of such company with the security holders of another company in connection with a take-over bid as defined in Part XVIII;

(*g*) the trade is made in a security of an issuer in connection with an exempt offer as defined in Part XVIII provided that the number of voting securities for which the offer is made together with the offeror's presently-owned securities will in the aggregate exceed 20 per cent of the outstanding voting securities of the company;

(*h*) the trade is made by an issuer in a security of its own issue as consideration for a portion or all of the assets of any person or company, if the fair value of the assets so purchased is not less than $100,000;

(*i*) the trade is made by an issuer in a security of its own issue in consideration of mining claims where the vendor enters into such escrow or pooling agreement as the Director considers necessary;

(*j*) the trade is made by an issuer in the securities of its own issue with its employees or the employees of an affiliate who are not induced to trade by expectation of employment or continued employment;

(*k*) the trade is made between an issuer in the securities of its own issue and not more than fifteen purchasers and each of the following requirements is satisfied,

(i) each such purchaser purchases as principal,

(ii) each such purchaser,

a. is an experienced investor who, by virtue of his net worth and investment experience or by virtue of consultation with or advice from a registered adviser, is able to evaluate the prospective investment on the basis of information respecting the investment presented to him by the issuer and who has access to substantially the same information concerning the issuer that a prospectus accepted for filing under this Act would provide, or

b. is a senior officer or director of the issuer or his spouse, parent, brother, sister or child,

(iii) the offer and sale of the securities are not accompanied by an advertisement and no selling or promotional expenses has been given, paid or incurred in connection therewith,

(iv) the solicitation in respect of the securities is not made to more than twenty-five prospective purchasers, and

(v) there are not more than fifteen holders of securities as a result of trades pursuant to this exemption;

(*l*) the trade is made from one registered dealer to another registered dealer where the registered dealer making the purchase is acting as principal; or

(*m*) the trade is made between an issuer and an underwriter acting as purchaser or between or among underwriters.

(2) For the purpose of subsection 1, a trust company registered under *The Loan and Trust Corporations Act* shall be deemed to be acting as principal when it trades as trustee for accounts fully managed by it. **Trust companies deemed principals** **R.S.O. 1970, c. 254**

(3) Where a trade has been made under clause *a*, *b*, *h*, *i*, *k* or *l* of subsection 1 or under subsection 5, the vendor shall within ten days file a report prepared and executed in accordance with the regulations. **Report**

(4) Where a trade has been made under clause *c* of subsection 1, the borrower shall forthwith deliver to the Commission for its information a report prepared and executed in accordance with the regulations certified by both the borrower and the lender. **Idem**

(5) The first trade in securities acquired pursuant to an exemption contained in clause *a*, *b*, *h*, *i*, *k* or *l* of subsection 1, other than a further trade exempted by subsection 1, is a distribution, unless, **First trades deemed distribution**

(*a*) the issuer of the security is a reporting issuer and is not in default of any requirement of this Act and the regulations; and

(*b*) (i) such securities are listed and posted for trading on a stock exchange recognized for this purpose by the Commission and such securities comply with the requirements of either clause *m* or *n* of subsection 1 of section 383 of *The Insurance Act*, and such securities have been held at least six months from the date of the initial exempt trade or the date the issuer became a reporting issuer, whichever is the later, or **R.S.O. 1970, c. 224**

(ii) such securities are listed and posted for trading on a stock exchange recognized for this purpose by the Commission, and such securities have been held at least one year from the date of the initial exempt trade or the date the issuer became a reporting issuer, whichever is later, or

(iii) such securities have been held at least eighteen months from the date of the initial exempt trade or the date the issuer became a reporting issuer, whichever is later,

provided that no unusual effort is made to prepare the market or to create a demand for such securities and no extraordinary commission or consideration is paid in respect of such trade.

First trades deemed distribution

(6) The first trade in securities acquired under an exemption contained in clause *d*, *e*, *f*, *g* or *j* of subsection 1, other than a further trade exempted by subsection 1, is a distribution unless,

(*a*) the issuer of the securities is a reporting issuer and is not in default of any requirement of this Act or the regulations;

(*b*) the issuer has filed a report prepared and executed in accordance with the regulations and sixty days have elapsed since the date of such filing; and

(*c*) no unusual effort is made to prepare the market or to create a demand for the securities and no extraordinary commission or consideration is paid in respect of such trade.

Idem

(7) The first trade in securities purchased under an exemption contained in clause *m* of subsection 1, other than a further trade exempted by subsection 1, is a distribution.

Prospectus not required

(8) Section 52 does not apply to a distribution within the meaning of subparagraph iii of paragraph 12 of subsection 1 of section 1 or by a lender for the purpose of liquidating a *bona fide* debt by selling or offering for sale a security pledged, mortgaged or otherwise encumbered in good faith as collateral for the debt in accordance with clause *c* of subsection 1, if,

(*a*) the distribution is exempted by subsection 1 of this section; or

(*b*) the issuer of the security is a reporting issuer and has been a reporting issuer for at least eighteen months and is not in default of any requirement of this Act or the regulations; and

(*c*) the seller,

(i) files with the Commission and any stock exchange recognized by the Commission for this purpose on which the securities are listed at least seven days and not more than fourteen days prior to the proposed trade,

a. a notice of intention to sell in the form prescribed by the regulations disclosing particulars of the control position, the number of securities to be sold and the method of distribution, and

b. a declaration signed by each seller as at a date not more than twenty-four hours prior to its filing and prepared and executed in accordance with the regulations and certified as follows:

"The seller for whose account the securities to which this certificate relates are to be sold hereby represents that he has no knowledge of any material change which has occurred in the affairs of the issuer of the securites which has not been generally disclosed and reported to the Commission, nor has he any knowledge of any other material adverse information in regard to the current and prospective operations of the issuer which have not been generally disclosed",

and,

(ii) files within three days after the completion of any trade a report of the trade in the form prescribed under Part XIX,

provided that the notice required to be filed under sub-subclause a of subclause i and the declaration required to be filed under sub-subclause b of subclause i shall be renewed and filed at the end of sixty days after the original date of filing and thereafter at the end of each twenty-eight day period so long as any of the securities specified under the original notice have not been sold or until notice has been filed that the securities so specified or any part thereof are no longer for sale; and

(*d*) no unusual effort is made to prepare the market or to create a demand for the securities and no extraordinary commission or other consideration is paid in respect of such trade. *New.*

Prospectus not required

71.—(1) Section 52 does not apply to a distribution of securities,

(*a*) referred to in subsection 2 of section 34 excepting paragraphs 15 and 16 thereof;

(*b*) that are listed and posted for trading on any stock exchange recognized for the purpose of this section by the Commission where such securities are distributed through the facilities of such stock exchange

pursuant to the rules of such stock exchange and the requirements of the Commission, provided that a statement of material facts, which shall comply as to form and content with the regulations, is filed with and is accepted for filing by such stock exchange and the Commission; or

(*c*) that are exempted by the regulations.

Application of ss. 69 and 123

(2) Sections 69 and 123 apply *mutatis mutandis* to a distribution under clause *b* of subsection 1 as if sections 52 and 61 were applicable thereto, and the statement of material facts referred to in clause *b* of subsection 1 shall be deemed conclusively to be a prospectus for the purposes of sections 69 and 123.

Order exempting from registration a prospectus

72.—(1) The Commission may, upon the application of an interested person or company, rule that an intended trade is not subject to section 23 or 52 where it is satisfied that to do so would not be prejudicial to the public interest, and may impose such terms and conditions as are deemed necessary. 1971, c. 31, s. 14, *part*, *amended*.

Determination of whether distribution has ceased

(2) Where doubt exists whether a distribution of any security has been concluded or is currently in progress, the Commission may determine the question and rule accordingly.

Ruling final

(3) A decision of the Commission under this section is final and there is no appeal therefrom. 1971, c. 31, s. 14, *part*.

PART XVI

CONTINUOUS DISCLOSURE

Publication of material change

73.—(1) Where a material change occurs in the affairs of a reporting issuer, it shall forthwith issue and file a press release authorized by a senior officer containing plain and accurate disclosure of such change.

Report of material change

(2) The reporting issuer shall file a report of such change with such documents and other information as may be prescribed by the regulations as soon as practicable and in any event within ten days of the date on which the change occurs.

Idem

(3) Where in the opinion of the reporting issuer the disclosure required by subsections 1 and 2 would be unduly detrimental to the interests of the reporting issuer without significant benefit to its present or prospective

security holders, it shall forthwith deliver to the Commission the report required under subsection 2 marked "confidential" together with written reasons for non-disclosure.

(4) Where a report has been delivered to the Commission under subsection 3, the reporting issuer shall advise the Commission in writing where it believes the report should continue to remain confidential within ten days of the date of delivery of the initial report and every ten days thereafter until the material change is generally disclosed. *New.* Idem

74. No person or company shall trade in securities of a reporting issuer with knowledge of a material fact or change in the affairs of such issuer that has not been generally disclosed or inform another person or company about such material fact or change other than in the necessary course of business before it has been so disclosed. *New.* Trading where undisclosed change

75. Every reporting issuer shall file within sixty days of the date to which it is made up an interim financial statement, Interim financial statement

(*a*) for the three-month period that commenced on the date of incorporation or organization, as the case may be, and for each subsequent three-month period during its first financial year, if the reporting issuer has not completed a financial year; or

(*b*) for the three-month period in the current financial year that commenced immediately following the last financial year and for each subsequent three-month period during the current financial year including a comparative statement for the corresponding three-month period of the last financial year, if the reporting issuer has completed a financial year,

made up and certified as required by the regulations and in accordance with generally accepted accounting principles applied on a basis consistent with that of the preceding period, if any. R.S.O. 1970, c. 426, s. 130 (1) *amended.*

76.—(1) Every reporting issuer shall file annually within 110 days from the end of its last completed financial year comparative financial statements relating separately to, Comparative financial statements

(*a*) the period that commenced on the date of incorporation or organization, as the case may be, and ended as of the close of its first financial year or, if the reporting issuer has completed a financial year, the last financial year, as the case may be; and

(*b*) the period covered by the financial year next preceding such last financial year, if any,

made up and certified as required by the regulations and in accordance with generally accepted accounting principles applied on a basis consistent with that of the preceding period, if any. R.S.O. 1970, c. 426, s. 120 (1), *amended*.

Auditor's report

(2) The financial statements referred to in subsection 1 shall be accompanied by a report of the auditor of the reporting issuer prepared in accordance with the regulations. R.S.O. 1970, c. 426, s. 119 (2), *amended*.

"auditor" defined

(3) For the purposes of this Part, "auditor", where used in relation to the reporting issuer, includes the auditor of the reporting issuer and any other independent public accountant. *New*.

Auditor's examination

77. The auditor of a reporting issuer shall make such examinations as will enable him to make the report required by subsection 2 of section 76. R.S.O. 1970, c. 426, s. 119 (1).

Relief against certain requirement

78. Upon the application of a reporting issuer, the Commission may, where in the opinion of the Commission to do so would not be prejudicial to the public interest, make an order on such terms and conditions as the Commission may impose,

(*a*) permitting the omission from the financial statements required to be filed under this Part of,

(i) comparative financial statements for particular periods of time,

(ii) sales or gross operating revenue where the Commission is satisfied that the disclosure of such information would be unduly detrimental to the interests of the reporting issuer without significant benefit to its present or prospective security holders, or

(iii) basic earnings per share or fully diluted earnings per share;

(*b*) where, in the opinion of the Commission, the reporting issuer is unable to comply with the requirements of the regulations relating to the preparation of a statement of source and application of funds required under this Part and the regulations, permitting the reporting issuer to file in lieu thereof an alternative financial statement containing such information, if any, as the Commission considers appropriate;

(*c*) exempting, in whole or in part, the reporting issuer from a requirement of this Part or the regulations relating to a requirement of this Part,

(i) if such requirement conflicts with a requirement of the laws of the jurisdiction under which the reporting issuer was incorporated or organized, or

(ii) if otherwise satisfied in the circumstances of the particular case that there is adequate justification for so doing. R.S.O. 1970, c. 426, s. 132 (1), *amended*.

Filing of information circular

79.—(1) Where the management of a reporting issuer is required to send an information circular under clause *a* of subsection 1 of section 84, the reporting issuer shall forthwith file a copy of such information circular certified in accordance with the regulations.

Idem

(2) In any case where subsection 1 is not applicable, the issuer shall file annually within 110 days from the end of its last financial year an information circular prepared and certified in accordance with the regulations. *New*.

Filing of documents filed in another jurisdiction

80. Where the laws of the jurisdiction in which the reporting issuer was incorporated or organized require the reporting issuer to file substantially the same information in that jurisdiction as is required by this Part, the reporting issuer may comply with the filing requirements of this Part by filing copies of the press release, timely disclosure report, information circular, or financial statements and auditor's report, as the case may be, required by that jurisdiction provided such releases, reports, circulars or statements are manually signed or certified in accordance with the regulations. *New*.

Order relieving small reporting issuer

81. Upon the application of a reporting issuer that has fewer than fifteen security holders whose latest address as shown on the books of the reporting issuer is in Ontario,

the Commission may order, subject to such terms and conditions as it may impose, that the reporting issuer shall be deemed to have ceased to be a reporting issuer where it is satisfied that to do so would not be prejudicial to the public interest. *New*.

PART XVII

PROXIES AND PROXY SOLICITATION

Interpretation

82. In this Part,

(*a*) "information circular" means an information circular prepared in accordance with the regulations;

(*b*) "solicit" and "solicitation" include,

(i) any request for a proxy whether or not accompanied by or included in a form of proxy,

(ii) any request to execute or not to execute a form of proxy or to revoke a proxy,

(iii) the sending or delivery of a form of proxy or other communication to a security holder under circumstances reasonably calculated to result in the procurement, withholding or revocation of a proxy,

(iv) the sending or delivery of a form of proxy to a security holder under section 83,

but do not include,

(v) the sending or delivery of a form of proxy to a security holder in response to an unsolicited request made by him or on his behalf, or

(vi) the performance by any person or company of ministerial acts or professional services on behalf of a person or company soliciting a proxy. R.S.O. 1970, c. 426, s. 101 (*b*, *c*), *amended*.

Mandatory solicitation of proxies

83. Subject to section 86, if the management of a reporting issuer gives or intends to give to its security holders notice of a meeting of any class of security holders, the management shall, concurrently with or prior to giving

such notice to such security holders whose latest address as shown on the books of the reporting issuer is in Ontario, sent by prepaid mail to each such security holder who is entitled to vote at such meeting, at his latest address as shown on the books of the reporting issuer, a form of proxy for use at such meeting that complies with the regulations. R.S.O. 1970, c. 426, s. 102 (1), *amended*.

Information circular

84.—(1) Subject to subsection 2 and section 86, no person or company shall solicit proxies from security holders whose latest address as shown on the books of the reporting issuer is in Ontario unless,

(*a*) in the case of a solicitation by or on behalf of the management of a reporting issuer, an information circular, either as an appendix to or as a separate document accompanying the notice of the meeting, is sent by prepaid mail to each such security holder of the reporting issuer whose proxy is solicited at his latest address as shown on the books of the reporting issuer; or

(*b*) in the case of any other solicitation, the person or company making the solicitation, concurrently with or prior thereto, delivers or sends an information circular to each such security holder whose proxy is solicited.

Application of subs. 1

(2) Subsection 1 does not apply to,

(*a*) any solicitation, otherwise than by or on behalf of the management of a reporting issuer, where the total number of security holders whose proxies are solicited is not more than fifteen, two or more persons or companies who are the joint registered owners of one or more securities being counted as one security holder;

(*b*) any solicitation by a person or company made under section 47; or

(*c*) any solicitation by a person or company in respect of securities of which he is the beneficial owner. R.S.O. 1970, c. 426, s. 103 (1, 2).

Voting where proxies

85. The chairman at a meeting has the right not to conduct a vote by way of ballot on any matter or group of matters in connection with which the form of proxy has provided a means whereby the person or company whose

proxy is solicited may specify how such person or company wishes the securities registered in his name to be voted unless,

(*a*) a poll is demanded by any security holder present at the meeting in person or represented thereat by proxy; or

(*b*) proxies requiring that the securities represented thereby be voted against what would otherwise be the decision of the meeting in relation to such matters or group of matters total more than 5 per cent of all the voting rights attached to all the securities entitled to be voted and be represented at the meeting. R.S.O. 1970, c. 426, s. 106, *amended*.

Compliance with laws of other jurisdiction

86.—(1) Where a reporting issuer is complying with the requirements of the laws of the jurisdiction under which it was incorporated or organized, and the requirements are substantially similar to the requirements of this Part, the requirements of this Part do not apply.

Exemption by order

(2) Subject to subsection 1, upon the application of any interested person or company, the Commission may,

(*a*) if a requirement of this Part conflicts with a requirement of the laws of the jurisdiction under which the reporting issuer was incorporated or organized; or

(*b*) if otherwise satisfied in the circumstances of the particular case that there is adequate justification for so doing,

make an order on such terms and conditions as seem to the Commission just and expedient exempting, in whole or in part, a person or company from the requirements of this Part. *New*.

PART XVIII

TAKE-OVER BIDS

Interpretation

87. In this Part,

(*a*) "day" means a clear day and a period of days shall be deemed to commence the day following

the event which began the period and shall be deemed to terminate on midnight of the last day of the period except that if the last day of the period falls on a Sunday or holiday the period shall terminate on midnight of the day next following that is not a holiday;

(*b*) "directors' circular" means a directors' circular prepared in accordance with the regulations;

(*c*) "exempt offer" means,

(i) an offer to purchase voting securities from fewer than fifteen security holders by private agreement and not made to security holders generally,

(ii) an offer to purchase voting securities to be effected through the facilities of a stock exhange or in the over-the-counter market,

(iii) an offer to purchase shares in a private company, or

(iv) an offer exempted by order of the Commission made under section 96;

(*d*) "offeree" means a person or company to whom a take-over bid is made and whose latest address as shown on the books of the offeree company is in Ontario;

(*e*) "offeree company" means a company whose securities are the subject of a take-over bid;

(*f*) "offeror" means a person or company other than an agent, who makes a take-over bid, and includes two or more persons or companies,

(i) whose take-over bids are made jointly or in concert, or

(ii) who intend to exercise jointly or in concert any voting rights attaching to the securities for which a take-over bid is made;

(*g*) "offeror's presently-owned securities" means voting securities of an offeree company beneficially owned, directly or indirectly, on the date of a take-over bid by the offeror or an associate of the offeror;

(*h*) "take-over bid" means an offer, other than an exempt offer, made to security holders the last address of any of whom as shown on the books of the offeree company is in Ontario to purchase such number of voting securities of a company that, together with the offeror's presently-owned securities, will in the aggregate exceed 20 per cent of the outstanding voting securities of the company;

(*i*) "undisclosed principal" means any person or company on whose behalf a take-over bid is made whose identity is not disclosed in the take-over bid or in the take-over bid circular. R.S.O. 1970, c. 426, s. 81; 1971, c. 31, s. 22, *amended*.

Requirements for take-over bid

88. The following provisions apply to every take-over bid:

1. The period of time in which securities may be deposited pursuant to a take-over bid shall not be less than twenty-one days from the date thereof.

2. Any shares deposited pursuant to a take-over bid shall not be taken up and paid for by the offeror until the expiration of ten days from its date.

3. Any securities deposited pursuant to a take-over bid may be withdrawn by an offeree at any time until the expiration of ten days from its date, but where the terms of the take-over bid are varied before the expiration thereof the offeree shall have an additional ten days from the date of the varied offer to withdraw any securities deposited pursuant to the take-over bid.

4. Withdrawal of any securities pursuant to paragraph 3 shall be made in writing, including telegraphic communication, by the offeree or his agent and must be actually received by the depositary.

5. Where a take-over bid is made for less than all the voting securities owned by offerees, securities deposited pursuant thereto shall not be taken up and paid for by an offeror untill the expiration of twenty-one days from its date.

6. Where a take-over bid is made for less than all the voting securities owned by offerees, the period of time within which securities may be deposited

pursuant to the take-over bid, or any extension thereof, shall not exceed thirty-five days from the date of the take-over bid.

7. Where a take-over bid is made for less than all the voting securities owned by offerees, securities deposited pursuant to the take-over bid shall be taken up and paid for, if all the terms and conditions thereof not waived by the offeror have been complied with, within fourteen days after the last day within which securities may be deposited thereto.

8. Where a take-over bid is made for less than all the voting securities owned by offerees and where a greater number of securities is deposited pursuant thereto than the offeror is bound or willing to take up and pay for, the securities taken up by the offeror shall be taken up as nearly as may be *pro rata*, disregarding fractions, according to the number of securities deposited by each offeree.

9. Where the laws applicable to the company provide for a right of appraisal or acquistion, the offeror shall advise the offeree of his rights of appraisal and whether the offeror intends exercising any right of acquisition he may have.

10. Where the offeror intends to purchase securities in the market, his intention shall be set out in the take-over bid circular and, where the take-over bid is made for less than all of the voting securities owned by the offeree, he shall not reduce the number of securities he is bound or willing to take up under paragraph 7 by the number of securities purchased in the market.

11. The offeror shall not attach any conditions to the offer except the right to withdraw the offer if,

    (*a*) the offerees fail to tender the minimum number of securities the offeror is bound and willing to take up;

    (*b*) any undisclosed action prior to the date of the offer, or any action subsequent to such date, of the directors or senior officers of the offeree company effects a material change in the affairs of such company; or

    (*c*) the required approval of a regulatory authority is not obtained prior to the expiration of the offer.

12. Where the offer is made for all of the voting securities owned by offerees the offeror shall, at the expiration of thirty-five days from the making of the offer, take up and pay for the securities tendered at that time or abandon his offer. R.S.O. 1970, c. 426, s. 82; 1971, c. 31, s. 23, *amended*.

Sending by mail

89. A take-over bid or a varied offer shall be sent by prepaid mail to the offerees and shall be deemed conclusively to have been dated as of the date on which it was so sent. R.S.O. 1970, c. 426, s. 83, *amended*.

Variation of terms of take-over bid

90.—(1) Where the terms of a take-over bid are varied before the expiration thereof by increasing the consideration offered for the voting securities of an offeree company, the offeror shall pay such increased consideration to each offeree whose securities are taken up and paid for pursuant to the take-over bid whether or not such securities have been taken up by the offeror before the variation of the take-over bid.

Idem

(2) Where a take-over bid for all the voting securities owned by offerees is converted, by amendments or otherwise, to a bid for less than all the voting securities owned by offerees, the take-over bid shall be deemed conclusively to be for less than all the voting securities owned by offerees. R.S.O. 1970, c. 426, s. 84, *amended*.

Consideration in cash

91. Where a take-over bid provides that the consideration for the securities deposited pursuant thereto is to be paid in cash or partly in cash, the offeror shall make adequate arrangements to ensure that the required funds are available to effect payment in full for all securities owned by offerees that the offeror has offered to purchase pursuant to the take-over bid. R.S.O. 1970, c. 426, s. 85.

Circular

92.—(1) A take-over bid circular shall form part of or accompany a take-over bid.

Content

(2) Every take-over bid circular shall be in the form and shall contain the information prescribed by this Part and the regulations.

Consideration in securities

(3) Where a take-over bid provides that the consideration for the securities of the offeree company is to be, in whole or in part, securities of an issuer, the take-over bid circular shall contain the additional information prescribed by the regulations. R.S.O. 1970, c. 426, s. 86, *amended*.

93.—(1) The board of directors of an offeree company shall send a directors' circular to each offeree prepared in accordance with the regulations. R.S.O. 1970, c. 426, s. 87 (1), *amended*. Directors' circular

(2) The board of directors may include in a directors' circular a recommendation to accept or to reject a take-over bid if it sees fit to do so. *New*. Recommendation by board

(3) An individual director or officer may recommend to the offerees acceptance or rejection of the take-over bid made to such offerees if the director or officer sends to each offeree with his communication a circular prepared in accordance with the regulations. R.S.O. 1970, c. 426, s. 87 (4), *amended*. Recommendation by individual director

(4) Where a board of directors is considering recommending acceptance or rejection of a take-over bid, it shall, at the time of sending a director's circular, advise the offerees of this fact and shall advise them not to tender their securities until further communication is received from the directors. R.S.O. 1970, c. 426, s. 87 (2), *amended*. Advising of consideration

(5) Where the board of directors sends a communication under subsection 4, it shall communicate the recommendation or the decision not to make a recommendation to the offerees at least seven days prior to the expiry of the offer. R.S.O. 1970, c. 426, s. 87 (3), *amended*. Advising of decision of directors

(6) All communications required or permitted by this section shall be sent to each offeree by prepaid mail to his latest address as shown on the books of the offeree company. R.S.O. 1970, c. 426, s. 87 (5). Service

94. No report, opinion or statement of a solicitor, auditor, accountant, engineer, appraiser or any other person or company whose profession gives authority to a statement made by him shall form part of or accompany a take-over bid or a directors' circular unless such person or company has consented in writing to the use of the report, opinion or statement. R.S.O. 1970, c. 426, s. 88. Experts' reports

95.—(1) Where a take-over bid is made by or on behalf of an issuer, the contents of the take-over bid circular shall be approved and the delivery thereof authorized by the directors of the issuer. R.S.O. 1970, c. 426, s. 89 (1), *amended*. Approval of circulars

(2) Where a take-over bid is made by or on behalf of an issuer, the take-over bid circular shall contain a Idem

statement that the contents thereof have been approved and the delivery thereof authorized by the directors of the issuer. R.S.O. 1970, c. 426, s. 93.

Idem

(3) The contents of a directors' circular shall be approved and the delivery thereof authorized by the directors of the offeree company. R.S.O. 1970, c. 426, s. 89 (2), *amended*.

Deeming offers exempt

96. Any person or company may apply to the Commission for an order declaring a take-over bid to be an exempt offer, and the Commission may deem, upon such terms and conditions as it may impose, the proposed offer to be an exempt offer where in its opinion it would not be prejudicial to the public interest to do so. R.S.O. 1970, c. 426, s. 90, *amended*.

Where principal undisclosed

97.—(1) Where a take-over bid is made by or on behalf of an undisclosed principal, the undisclosed principal shall be deemed to be the offeror for the purposes of compliance with this Part and the regulations. R.S.O. 1970, c. 426, s. 92 (1), *amended*.

Naming of offeror

(2) Where a take-over bid is made for less than all the outstanding voting securities owned by the offerees, the identity of the offeror shall be disclosed in the take-over bid circular. 1971, c. 31, s. 27, *amended*.

Experts' consent re take-over bid

98. The consent of a person or company required by section 94 to the inclusion of his report, opinion or statement in a take-over bid or in the material accompanying the take-over bid shall be reproduced in the take-over bid circular. R.S.O. 1970, c. 426, s. 94.

Experts' consent re directors' circular

99. The consent of a person or company required by section 94 to the inclusion of his report, statement or opinion in a directors' circular or in the material accompanying the directors' circular shall be reproduced in the directors' circular. R.S.O. 1970, c. 426, s. 97.

Financial statement

100. Where any financial statements of the offeree company accompany or form part of a directors' circular, such statement, if not reported upon by the auditor of the company, shall be accompanied by a report of the chief financial officer of the company who shall state in his report whether in his opinion the financial statements referred to therein present fairly the financial position of the offeree company and the results of its operations for the period under review. R.S.O. 1970, c. 426, s. 98.

PART XIX

INSIDER TRADING AND SELF-DEALING

101.—(1) In this Part, Interpretation

(*a*) "insider" or "insider of a reporting issuer" means,

(i) the reporting issuer,

(ii) every director or senior officer of a reporting issuer,

(iii) every director or senior officer of an issuer that is itself an insider of a reporting issuer, and

(iv) any person or company that beneficially owns, directly or indirectly, voting securities of a reporting issuer or that exercises control or direction over voting securities of a reporting issuer or a combination of both carrying more than 10 per cent of the voting rights attached to all voting securities of the reporting issuer for the time being outstanding, provided that in the case of an underwriter there shall be excluded any voting securities acquired by him as underwriter in a distribution but such exclusion ceases on the completion or cessation of the distribution by him;

(*b*) "mutual fund" means a mutual fund that is a reporting issuer;

(*c*) "portfolio securities", where used in relation to a mutual fund, means securities traded within the last thirty days, presently held, or proposed to be purchased by the mutual fund;

(*d*) "related mutual funds" includes more than one mutual fund under common management;

(*e*) "related person or company" in relation to a mutual fund means a person in whom, or a company in which, the mutual fund, its management company and its distribution company are prohibited by the provisions of this Part from making any investment by way of loan or otherwise.

Idem

(2) For the purpose of this Part,

(*a*) every management company and every distribution company of a mutual fund and every insider of such management company and distribution company shall be deemed to be an insider of the mutual fund;

(*b*) any issuer in which a mutual fund holds or related mutual funds together hold in excess of 10 per cent of the voting securities shall be deemed to be a related person or company of that mutual fund or of each of those related mutual funds;

(*c*) the acquisition or disposition by an insider of a put, call or other transferable option with respect to a security shall be deemed a change in the beneficial ownership of the security to which such put, call or other transferable option relates;

(*d*) for the purpose of reporting under section 102 or 103, ownership shall be deemed to pass at such time as an offer to sell is accepted by the purchaser or his agent or an offer to buy is accepted by the vendor or his agent;

(*e*) where the voting securities are registered in the name of an agent, nominee or custodian of the beneficial owner of such voting securities, such agent, nominee or custodian shall be deemed to exercise control or direction over such voting securities and, where required, shall comply with sections 102 and 103 unless the beneficial owner files a report in compliance with those sections disclosing the registered holder as agent, nominee, or custodian. R.S.O. 1970, c. 426, s. 109, *amended*.

Report

102.—(1) A person or company that becomes an insider of a reporting issuer shall, within ten days after the end of the month in which he becomes an insider, file a report as of the day on which he became an insider disclosing whether or not he has any direct or indirect beneficial ownership of or control or direction over securities of the reporting issuer as may be required by the regulations.

Idem

(2) A person or company that has filed or is required to file a report under this section or any predecessor thereof and whose direct or indirect beneficial ownership of or control or direction over securities of the reporting issuer changes from that shown or required to be shown in

such report or in the latest report filed by him under this section or any predecessor thereof shall, within ten days following the end of the month in which such change takes place, if he was an insider of the reporting issuer at any time during such month, file a report of his direct or indirect beneficial ownership of or his control or direction over securities of the reporting issuer at the end of such month and the change or changes therein that occurred during said month giving such details of each transaction as may be required by the regulations. R.S.O. 1970, c. 426, s. 110 (1, 2), *amended*.

Report of offeror

103.—(1) Where a person or company becomes the beneficial owner, directly or indirectly, of voting securities of a company carrying 20 per cent or more of the voting rights attached to all voting securities for the time being outstanding, through purchases effected through an exempt offer, as defined in Part XVIII, such person or company shall file a report as of the day on which he acquired such ownership within three days of acquiring such 20 per cent ownership.

Idem

(2) A person or company required to file a report under subsection 1 shall, within three days of purchasing further voting securities carrying an additional 5 per cent of the voting rights through a further exempt offer, as defined in Part XVIII, file a report as of the day on which he acquired an additional 5 per cent of the voting rights and thereafter each time he acquires a further 5 per cent.

Idem

(3) Where the facts required to be reported by this section are identical to those required under section 102, a separate report under section 102 is not required. 1971, c. 31, s. 33, *amended*.

Interpretation

104. For the purposes of sections 105, 106, 107, 108, 109 and 110,

(*a*) "investment" means an investment in an issuer by way of purchase of any security of any class of securities of an issuer including bonds, debentures, notes, or other evidences of indebtedness thereof, and loans to persons or companies but does not include an advance or loan, whether secured or unsecured, that is made by a mutual fund, its management company or its distribution company that is merely ancillary to the main business of the mutual fund, its management company or its distribution company;

(*b*) a person or company or a group of persons or companies has a significant interest in an issuer, if,

(i) in the case of a person or company, he or it, as the case may be, owns beneficially, either directly or indirectly, more than 10 per cent, or

(ii) in the case of a group of persons or companies, they own beneficially, either individually or together and either directly or indirectly, more than 50 per cent,

of the outstanding shares or units of the issuer;

(*c*) a person or company or a group of persons or companies is a substantial security holder of an issuer if that person or company or group of persons or companies owns beneficially, either individually or together or directly or indirectly, voting securities to which are attached more than 20 per cent of the voting rights attached to all the voting securities of the issuer for the time being outstanding, but in computing the percentage of voting rights attached to voting securities owned by an underwriter, there shall be excluded any voting securities acquired by him as underwriter in a distribution of such securities but such exclusion ceases to have effect on completion or cessation of the distribution by him;

(*d*) where a person or company or group of persons or companies owns beneficially, directly or indirectly, or pursuant to this clause is deemed to own beneficially, voting securities of an issuer, that person or company or group of persons or companies shall be deemed to own beneficially a proportion of voting securities of any other issuer that are owned beneficially, directly or indirectly, by the first mentioned issuer, which proportion shall equal the proportion of the voting securities of the first mentioned issuer that are owned beneficially, directly or indirectly, or that pursuant to this clause are deemed to be owned beneficially, by that person or company or group of persons or companies. *New*.

Loans of mutual funds

105.—(1) No mutual fund shall knowingly make an investment by way of loan to,

(*a*) any officer or director of the mutual fund, its management company or distribution company or an associate of any of them;

(*b*) any individual, where the individual or an associate of the individual is a substantial security holder of the mutual fund, its management company or distribution company.

Loans of management or distribution companies

(2) No management company or distribution company of a mutual fund shall knowingly make an investment by way of loan to,

(*a*) any officer or director of the mutual fund or an associate of any of them; or

(*b*) any individual, where the individual or associate of the individual is a substantial security holder of the mutual fund.

Investments of mutual funds, etc.

(3) No mutual fund, its management company or distribution company shall knowingly make an investment,

(*a*) in any person or company that is a substantial security holder of the mutual fund, its management company or distribution company;

(*b*) in any person or company in which the mutual fund, alone or together with one or more related mutual funds, is a substantial security holder; or

(*c*) in an issuer in which,

(i) any officer or director of the mutual fund, its management company or distribution company or an associate of any of them, or

(ii) any person or company who is a substantial security holder of the mutual fund, its management company or its distribution company,

has a significant interest.

Divesting of prohibited loans and investments

(4) No mutual fund or its management company or its distribution company shall knowingly hold an investment made after the coming into force of this Act that, at the time it was made, was an investment described in this section. *New*.

Limitation on mutual fund investment

106. No mutual fund shall purchase securities of any class of an issuer if after the purchase,

(*a*) the holdings of the mutual fund exceed 10 per cent of the outstanding securities of that class by number or value or the holdings of the mutual fund and of related funds exceed 20 per cent of the outstanding securities of that class by number or value; or

(*b*) the holdings of the mutual fund of all of the securities of the issuer exceed 10 per cent by value of the net asset value of such mutual fund. *New*.

Contingent investment

107. No mutual fund or its management company or its distribution company shall knowingly enter into any contract or other arrangement that results in its being directly or indirectly contingently liable in respect of any investment by way of loan to, or other investment in, a person or company to whom it is by section 105 prohibited from making a loan or in which it is prohibited from making any other investment, and for the purpose of section 105 any such contract or other arrangement shall be deemed to be a loan or an investment, as the case may be. *New*.

Relieving orders

108. The Commission may,

(*a*) where it is satisfied that an investment in or a loan to a person or company by a mutual fund, its management company or its distribution company would not result in a benefit, direct or indirect, to any person or company that has power to influence the investment management of the mutual fund, order, subject to such terms and conditions as it may impose, that such person or company is not a related person or company of the mutual fund;

(*b*) where it is satisfied that an investment in or a loan to a person or company by a mutual fund, its management company or its distribution company, might result in a benefit, direct or indirect, to any person or company that has power to influence the investment management of a mutual fund, order, subject to such terms and conditions as it may impose, that such person or company is a related person or company of the mutual fund;

(*c*) where it is satisfied,

(i) that a class of investment or a particular investment represents the business judgment of responsible persons uninfluenced by considerations other than the best interests of a mutual fund, or

(ii) that a particular investment is in fact in the best interests of a mutual fund,

order, subject to such terms and conditions as it may impose, that section 105 or section 107 does not apply to the class of investment, particular investment, contract or other arrangement, as the case may be. *New*.

Exception to s. 104 (*d*)

109. Notwithstanding clause *d* of section 104, a mutual fund, its management company or its distribution company is not prohibited from making an investment in an issuer only because a person or company or a group of persons or companies that owns beneficially, directly or indirectly, or is deemed to own beneficially, voting securities of the mutual fund or its management company or its distribution company is by reason thereof deemed to own beneficially voting securities of the issuer. *New*.

Fees on investment

110.—(1) No mutual fund shall make any investment in consequence of which a related person or company of the mutual fund will receive any fee or other compensation except fees paid pursuant to a contract which is disclosed in any preliminary prospectus or prospectus, or any amendment to either of them, that is filed by the mutual fund and is accepted by the Director.

Relieving orders

(2) The Commission may, upon the application of a mutual fund and where it is satisfied that it would not be prejudicial to the public interest to do so, order, subject to such terms and conditions as it may impose, that subsection 1 does not apply to the mutual fund. *New*.

Standard of care for management of mutual fund

111.—(1) Every person or company responsible for the management of a mutual fund shall exercise the powers and discharge the duties of its office honestly, in good faith and in the best interests of the mutual fund, and in connection therewith shall exercise the degree of care, diligence and skill that a reasonably prudent person would exercise in the circumstances.

Idem

(2) For the purposes of subsection 1, a person or company is responsible for the management of a mutual fund if he has legal power or right to control the mutual fund or if in fact he is able to do so. *New*.

Filing by management companies

112.—(1) Every management company shall file a report of,

(*a*) every transaction of purchase or sale of securities between the mutual fund and any related person or company;

(*b*) every loan received by such mutual fund from, or made by such mutual fund to, any of its related persons or companies;

(*c*) every purchase or sale effected by such mutual fund through any related person or company with respect to which the related person or company received a fee either from the mutual fund or from the other party to the transaction or from both; and

(*d*) any transaction in which, by arrangement other than an arrangement relating to insider trading in portfolio securities, the mutual fund is a joint participant with one or more of its related persons or companies,

in respect of each mutual fund to which it provides services or advice, within thirty days after the end of the month in which it occurs.

Relieving orders

(2) The Commission may, upon the application of the management company of a mutual fund and where it is of the opinion that it would not be prejudicial to the public interest to do so, order, subject to such terms and conditions as it may impose, that subsection 1 does not apply to any transaction or class of transactions. *New*.

Trades by mutual fund insiders

113. No person or company that,

(*a*) being an insider of a mutual fund;

(*b*) being an associate or affiliate of such insider;

(*c*) having knowledge of any material fact relating to a mutual fund that has not been generally disclosed, unless such person or company has reasonable grounds to believe that such material fact has been so disclosed; or

(*d*) being a person or company who by reason of his position has access to information concerning the investment program of the mutual fund,

shall trade in securities of an issuer where the portfolio securities of the mutual fund include securities of such issuer and where such trade involves the use of any material fact that has not been generally disclosed and results in a direct benefit or advantage being received or receivable by such insider, associate or affiliate, person or company, as the case may be, as a result of such transaction. *New*.

Publication of summaries of reports

114. The Commission shall summarize in or as a part of a monthly periodical available to the public on payment of a reasonable fee the information contained in every report filed in compliance with this Part. R.S.O. 1970, c. 426, s. 111 (2).

Filing in other jurisdiction

115.—(1) Where the laws of the jurisdiction in which the reporting issuer was incorporated or organized require the reporting issuer to file substantially the same reports in that jurisdiction as are required by this Part, the filing requirements of this Part may be complied with by filing the reports required by the laws of such jurisdiction manually signed or certified in accordance with the regulations. *New*.

Exemptions by order of Commission

(2) Subject to subsection 1, upon the application of an interested person or company, the Commission may,

(*a*) if a requirement of this Part conflicts with a requirement of the laws of the jurisdiction under which the reporting issuer was incorporated or organized; or

(*b*) if otherwise satisfied in the circumstances of the particular case that there is adequate justification for so doing,

make an order on such terms and conditions as seem to the Commission just and expedient, exempting in whole or in part, a person or company from the requirements of this Part. R.S.O. 1970, c. 426, s. 116 (1), *amended*.

PART XX

ENFORCEMENT

Offences, general

116.—(1) Every person or company that,

(*a*) makes a statement in any material, evidence or information submitted or given under this Act or the regulations to the Commission, its representative, the Director or to any person appointed to make

an investigation or audit under this Act that, at the time and in the light of the circumstances under which it is made, is a misrepresentation;

(*b*) makes a statement in any application, release, report, preliminary prospectus, prospectus, return, financial statement, information circular, take-over bid circular or other document required to be filed or furnished under this Act or the regulations that, at the time and in the light of the circumstances under which it is made, is a misrepresentation;

(*c*) contravenes this Act or the regulations; or

(*d*) fails to observe or to comply with any direction, decision, ruling, order or other requirement made under this Act or the regulations,

is guilty of an offence and on summary conviction is liable, in the case of a person, other than an individual, or company, to a fine of not more than $25,000 and, in the case of an individual, to a fine of not more than $2,000 or to imprisonment for a term of not more than one year, or to both.

Defence

(2) No person or company is guilty of an offence under clause *a* or *b* of subsection 1 if he or it, as the case may be, did not know and in the exercise of reasonable diligence could not have known that the statement was a misrepresentation.

Directors and officers

(3) Where a person other than an individual, or where a company is guilty of an offence under subsection 1, every director or officer of such person or company who authorized, permitted, or acquiesced in such offence is also guilty of an offence and on summary conviction is liable to a fine of not more than $2,000 or to imprisonment for a term of not more than one year, or to both. R.S.O. 1970, c. 426, s. 137 (1-3), *amended*.

Consent of Minister

117. No proceedings under section 116 shall be instituted except with the consent or under the direction of the Minister. R.S.O. 1970, c. 426, s. 138 (1).

Information containing more than one offence

118. An information in respect of any contravention of this Act may be for one or more offence, and no information, summons, warrant, conviction or other proceeding in any such prosecution is objectionable or insufficient by reason of the fact that it relates to two or more offences. R.S.O. 1970, c. 426, s. 139.

119.—(1) Where a provincial judge, magistrate or justice of another province or territory of Canada issues a warrant for the arrest of any person on a charge of contravening any provision of a statute of such province or territory similar to this Act, any provincial judge or justice of Ontario within whose jurisdiction that person is or is suspected to be, may, upon satisfactory proof of the handwriting of the provincial judge, magistrate or a justice who issued the warrant, make an endorsement thereon in the form prescribed by the regulations, and a warrant so endorsed is sufficient authority to the person bringing the warrant and to all other persons to whom it was originally directed and to all constables within the territorial jurisidction of the provincial judge or justice so endorsing the warrant to execute it within that jurisdiction and to take the person arrested thereunder either out of or anywhere in Ontario and to rearrest such person anywhere in Ontario. Execution of warrant issued in another province

(2) Any constable of Ontario or of any other province or territory of Canada who is passing through Ontario having in his custody a person arrested in another province or territory under a warrant endorsed under subsection 1 is entitled to hold, take and rearrest the accused anywhere in Ontario under such warrant without proof of the warrant or the endorsement thereof. R.S.O. 1970, c. 426, s. 149. Prisoner in transit

120.—(1) Where it appears to the Commission that any person or company has failed to comply with or is violating any decision or any provision of this Act or the regulations, the Commission may, notwithstanding the imposition of any penalty in respect of such non-compliance or violation and in addition to any other rights it may have, apply to a judge of the High Court designated by the Chief Justice of the High Court for an order, Order for compliance

(*a*) directing such person or company to comply with such decision or provision restraining such person or company from violating such decision or provision; and

(*b*) directing the directors and senior officers of such person or company to cause such person or company to comply with or to cease the violating of any such decision or provision,

and upon the application the judge may make such order or such other order as the judge thinks fit.

(2) An appeal lies to the Supreme Court from an order made under subsection 1. R.S.O. 1970, c. 426, s. 143, *amended*. Appeal

Order to cease trading

121.—(1) The Commission may, where in its opinion such action is in the public interest, order, subject to such terms and conditions as it may impose, that trading shall cease in respect of any securities for such period as is specified in the order. R.S.O. 1970, c. 426, s. 144 (1).

Idem

(2) The Commission may issue a cease trading order under subsection 1 notwithstanding the delivery of a report to it pursuant to subsection 3 of section 73. *New*.

Temporary order

(3) No order shall be made under subsection 1 or 2 without a hearing unless in the opinion of the Commission the length of time required for a hearing could be prejudicial to the public interest, in which event the Commission may make a temporary order, which shall expire fifteen days from the date of the making thereof, but such order may be extended for such period as the Commission considers necessary where satisfactory information is not provided to the Commission within the fifteen day period. R.S.O. 1970, c. 426, s. 144 (2).

Limitation period

122.—(1) No proceedings under this Part shall be commenced in a court more than one year after the facts upon which the proceedings are based first came to the knowledge of the Commission.

Idem

(2) No proceedings under this Act shall be commenced before the Commission more than two years after the facts upon which the proceedings are based first came to the knowledge of the Commission. R.S.O. 1970, c. 426, s. 138 (2, 3), *amended*.

PART XXI

CIVIL LIABILITY

Liability for misrepresentation in prospectus

123.—(1) Where a prospectus together with any amendment to the prospectus contains a misrepresentation, a purchaser who purchases a security offered shall be deemed to have relied on such misrepresentation and has a right of action for rescission or damages against,

(*a*) the issuer or selling security holder;

(*b*) each underwriter of the securities;

(*c*) every director of the issuer at the time the prospectus or the amendment to the prospectus was filed;

(*d*) every person or company whose consent has been filed pursuant to a requirement of the regulations but only

with respect to statements or reports that have been made by them; and

(*e*) every person or company that signed the prospectus or the amendment to the prospectus other than the persons or companies included in clauses *a* to *d*.

(2) No person or company is liable under subsection 1 if he proves that the plaintiff purchased the securities with knowledge of the misrepresentation. Defence

(3) No person or company, other than the issuer or selling security holder, is liable under subsection 1 if he proves, Idem

(*a*) that the prospectus or the amendment to the prospectus was filed without his knowledge or consent, and that, on becoming aware of its filing, he forthwith gave reasonable general notice that it was so filed;

(*b*) that, after the issue of a receipt for the prospectus and before the purchase of the securities by such purchaser, on becoming aware of any misrepresentation in the prospectus or an amendment to the prospectus he withdrew his consent thereto and gave reasonable general notice of such withdrawal and of the reason therefor;

(*c*) that with respect to every misrepresentation, he had, after reasonable investigation, reasonable grounds to believe and did believe that the statement was true and that there was no omission to state a material fact;

(*d*) that, with respect to any part of the prospectus or the amendment to the prospectus purporting to be made on the authority of an expert or purporting to be a copy of an extract of a report or evaluation of an expert, he had no reasonable grounds to believe and did not believe that there had been a misrepresentation or that such part of the prospectus or the amendment to the prospectus did not fairly represent the statement of the expert or was not a fair copy of the extract from the report or evaluation of the expert; or

(*e*) that, with respect to any part of the prospectus or the amendment to the prospectus purporting to be made on his own authority as an expert or purporting to be a copy of an extract from his own report

or evaluation as an expert, he had, after reasonable investigation, reasonable grounds to believe and did believe that there had been no misrepresentation or that part of the prospectus or the amendment to the prospectus did not fairly represent his statement as an expert or was not a fair copy of or extract from his report or evaluation as an expert and on becoming aware of such use of his statement or report or evaluation he forthwith advised the Commission and gave reasonable general notice that such use had been made and that he would not be responsible for that part of the prospectus or the amendment to the prospectus.

Idem

(4) In determining what constitutes reasonable investigation or reasonable grounds for belief for the purposes of subsection 2, the standard of reasonableness shall be that required of a prudent man in the circumstances of the particular case.

Limitation re underwriters

(5) No underwriter is liable for more than the total public offering price represented by the portion of the distribution underwritten by him.

No derogation of rights

(6) The right of action for rescission or damages conferred by this section is in addition to and without derogation from any other right the purchaser may have at law. R.S.O. 1970, c. 426, s. 142, *amended*.

Liability for misrepresentation in circular

124.—(1) Where a circular sent to the offerees of an offeree company as required by Part XVIII contains a misrepresentation, every such offeree shall be deemed to have relied on such misrepresentation and has a right of action for rescission or damages against,

(*a*) the offeror;

(*b*) every person who at the time the circular was signed was a director of the offeror;

(*c*) if a directors' circular has been sent, every person who is a director of the offeree company at the time such circular was signed; and

(*d*) each person who signed a certificate in a circular other than the persons included in clauses *b* and *c*.

Defence

(2) No person or company is liable under subsection 1 if he proves that the offeree had knowledge of the misrepresentation.

(3) No person or company, other than the offeror, is liable under subsection 1 if he proves, Idem

(*a*) that, with respect to every misrepresentation, he had, after reasonable investigation, reasonable grounds to believe and did believe the statement was true and that there was no omission to state a material fact;

(*b*) that, with respect to any part of the circular purporting to be a copy of an extract from a report, opinion, or statement of an expert, he had no reasonable grounds to believe and did not believe that there had been a misrepresentation or that such part of the circular did not fairly represent the report, opinion, or statement of the expert or was not a fair copy of an extract from the report, opinion or statement of the expert; or

(*c*) that, with respect to any part of the circular purporting to be made on his own authority as an expert or purporting to be a copy of an extract from his own report, opinion or statement as an expert, he had, after reasonable investigation, reasonable grounds to believe and did believe that there had been no misrepresentation, or that part of the circular did not fairly represent his report, opinion or statement as an expert or was not a fair copy of or extract from his report, opinion or statement and upon becoming aware of such use of his report, opinion or statement he forthwith advised the Commission and gave reasonable general notice that such use had been made and that he would not be responsible for that part of the circular.

(4) The right of action for rescission or damages conferred by this section is in addition to and without derogation from any other right the offeree may have at law. 1971, c. 31, ss. 29, 45, *amended*. No derogation of rights

125. A person or company that trades in a security in violation of section 52, 64, 69, subsection 5, 6 or 8 of section 70 or section 92 is liable to his purchaser or offeree for rescission or damages. R.S.O. 1970, c. 426, s. 65; 1971, c. 31, s. 20, *amended*. Liability for unlawful trade

126.—(1) Every person or company that sells or purchases the securities of a reporting issuer with knowledge of a material fact or change with respect to such issuer that has not been Liability where material change undisclosed

generally disclosed is liable to compensate the purchaser or vendor of such securities for any loss suffered as a result of such trade unless,

(*a*) such person or company has reasonable grounds to believe that such material fact or change has been generally disclosed; or

(*b*) such material fact or change was known to the purchaser or vendor.

Idem

(2) Every person or company that,

(*a*) is an insider of a mutual fund that is a reporting issuer;

(*b*) is an associate or affiliate of such insider;

(*c*) has knowledge of any material fact with respect to a mutual fund that is a reporting issuer that has not been generally disclosed, unless such person or company has reasonable grounds to believe that such material fact has been so disclosed;

(*d*) is a person or company who by reason of his position has access to information concerning the investment program of a mutual fund that is a reporting issuer,

and makes use of any material fact that has not been generally disclosed, in connection with a transaction relating to securities of an issuer where the portfolio securities of the mutual fund include securities of such issuer, is accountable to the mutual fund for any benefit or advantage received or receivable by such insider, associate or affiliate, issuer, person or company, as the case may be, as a result of such transaction.

Accountability for gain

(3) Every person or company referred to in subsection 1 that is also an insider of the reporting issuer, or an associate or affiliate of such insider, is, in addition to the liability imposed by subsection 1, accountable to such issuer for any benefit or advantage received or receivable by such insider or associate or affiliate. R.S.O. 1970, c. 426, s. 65; 1971, c. 31, s. 20, *amended*.

Action by Commission on behalf of issuer

127.—(1) Upon application by the Commission or by any person or company that was at the time of a transaction referred to in subsection 1 of section 126 or is at the time of the application a security holder of the reporting issuer, a judge of the High Court designated by the Chief Justice of the High Court may, if satisfied that,

(*a*) the Commission or such person or company has reasonable grounds for believing that the reporting issuer has a cause of action under subsection 1 of section 126; and

(*b*) either,

(i) the reporting issuer has refused or failed to commence an action under section 126 within sixty days after receipt of a written request from the Commission or such person or company so to do, or

(ii) the reporting issuer has failed to prosecute diligently an action commenced by it under section 126,

make an order, upon such terms as to security for costs and otherwise as to the judge seems fit, requiring the Commission to commence or continue an action in the name of and on behalf of the reporting issuer to enforce the liability created by subsection 1 of section 126.

Action by Commission of behalf of mutual fund

(2) Upon application by the Commission or any person or company that was at the time of a transaction referred to in subsection 2 of section 126 or is at the time of the application a security holder of the mutual fund, a judge of the High Court designated by the Chief Justice of the High Court may, if satisfied that,

(*a*) the Commission or such person or company has reasonable grounds for believing that the mutual fund has a cause of action under subsection 2 of section 126; and

(*b*) either,

(i) the mutual fund has refused or failed to commence an action under subsection 2 of section 126 within sixty days after receipt of a written request from the Commission or such person or company so to do, or

(ii) has failed to prosecute diligently an action commenced by it under subsection 2 of section 126,

make an order, upon terms as to security for costs or otherwise as to the judge seems fit, authorizing such person or company or the Commission to commence and prosecute or

to continue an action in the name of and on behalf of the mutual fund to enforce the liability created by subsection 2 of section 126.

Action by Commission on behalf of security holder of mutual fund

(3) Where a person or company that is a security holder of the mutual fund or the Commission has been authorized by an order made under subsection 2 to commence and prosecute or to continue an action to enforce the liability created by subsection 2 of section 126, a judge of the High Court designated by the Chief Justice of the High Court may, if satisfied upon the application by the board of directors of the mutual fund, that security holders of the mutual fund named in the order or the Commission,

(*a*) have failed or refused to commence the action within sixty days of the date of the making of the order; or

(*b*) have failed or refused to prosecute diligently an action commenced pursuant to the order,

make an order, upon such terms as to security for costs or otherwise as to the judge seems fit, rescinding the order made under subsection 2 and authorizing such board of directors to commence and prosecute or to continue the action in the name and on behalf of the mutual fund to enforce the liability created by subsection 2 of section 126.

Costs

(4) Where an action under subsection 2 of section 126 is,

(*a*) commenced;

(*b*) commenced and prosecuted; or

(*c*) continued,

by the board of directors of a mutual fund, the trial judge or a judge of the High Court designated by the Chief Justice of the High Court may order that the costs properly incurred by such board of directors in commencing, commencing and prosecuting or continuing the action, as the case may be, shall be paid by the mutual fund, if he is satisfied that the action was *prima facie* in the best interests of the mutual fund and the security holders thereof.

Idem

(5) Where an action under subsection 2 of section 126 is,

(*a*) commenced;

(*b*) commenced and prosecuted; or

(*c*) continued,

by a person or company who is a security holder of the mutual fund, the trial judge of the High Court designated by the Chief Justice of the High Court may order that the costs properly incurred by such person or company in commencing, commencing and prosecuting or continuing the action, as the case may be, shall be paid by the mutual fund, if he is satisfied that,

(*d*) the board of directors of the mutual fund failed to commence the action or had commenced it but had failed to prosecute it diligently; and

(*e*) the continuance of the action was *prima facie* in the best interests of the mutual fund and the security holders thereof.

Idem

(6) Where an action under subsection 2 of section 126 is,

(*a*) commenced;

(*b*) commenced and prosecuted; or

(*c*) continued,

by the Commission, the trial judge or a judge of the High Court designated by the Chief Justice of the High Court shall order the mutual fund to pay all costs properly incurred by the Commission in commencing, commencing and prosecuting or continuing the action, as the case may be.

Idem

(7) In determining whether an action or its continuance is *prima facie* in the best interests of a mutual fund and the security holders thereof, the judge shall consider the relationship between the potential benefit to be derived from the action by the mutual fund and the security holders thereof and the cost involved in the prosecution of the action.

Notice of application

(8) Notice of every application under subsection 1 or 2 shall be given to the Commission, the reporting issuer, and the mutual fund, as the case may be, and each of them may appear and be heard thereon.

Order to co-operate

(9) Every order made under subsection 1 or 2 authorizing the Commission to commence and prosecute or continue an action shall provide that the reporting issuer or mutual fund, as the case may be, shall co-operate fully with the Commission in the commencement and prosecution or continuation of the action, and shall make available to the Commission all books, records, documents and other material or information known

to the reporting issuer or mutual fund or reasonably ascertainable by the reporting issuer or mutual fund relevant to such action.

Appeal

(10) An appeal lies to the Supreme Court from any order made under this section. *New*.

Rescission of contract

128.—(1) If subsection 1 of section 38 applies to a contract and such subsection is not complied with, a person or company that has entered into such contract is entitled to rescission thereof by serving written notice of rescission on the registered dealer within sixty days of the date of the delivery of the security to or by such person or company, as the case may be, but, in the case of a purchase by such person or company, only if he is still the owner of the security purchased.

Idem

(2) If clause *c* of subsection 1 of section 35 applies to a contract and such subsection is not complied with, a person or company that has entered into such contract is entitled to rescission thereof by serving written notice of rescission on the registered dealer within seven days of the date of the delivery of the written confirmation of the contract but, in the case of a purchase by such person or company, only if he is still the owner of the security purchased. R.S.O. 1970, c. 426, s. 71 (1, 2).

Service

(3) For the purpose of subsection 2, a confirmation sent by prepaid mail shall be deemed conclusively to have been delivered to the person or company to whom it was addressed in the ordinary course of mail. *New*.

Onus

(4) In an action respecting a rescission to which this section applies, the onus of proving compliance with section 35 or 38 is upon the registered dealer.

Limitation period

(5) No action respecting a rescission shall be commenced under this section after the expiration of a period of three months from the date of the service of notice under subsection 1 or 2. R.S.O. 1970, c. 426, s. 71 (3, 4).

Rescission of purchase of mutual fund security

129.—(1) Every purchaser of a security of a mutual fund may, where the amount of such purchase does not exceed the sum of $50,000, rescind the purchase by notice given to the registered dealer from whom the purchase was made within forty-eight hours after receipt of the confirmation for a lump sum purchase or within sixty days after receipt of the confirmation for the initial payment under a contractual plan.

(2) The right to rescind a purchase made under a contractual plan may be exercised only with respect to payments made within the time specified in subsection 1 for rescinding a purchase made under a contractual plan. Idem

(3) The notice mentioned in subsection 1 shall be in writing, and may be given by prepaid mail, telegram or other means. Notice

(4) A confirmation sent by prepaid mail shall be deemed conclusively to have been received in the ordinary course of mail by the person or company to whom it was addressed. Service

(5) Every registered dealer from whom the purchase was made shall reimburse the purchaser who has exercised his right of rescission in accordance with this section for the amount of sales charges and fees relevant to the investment of the purchaser in the mutual fund in respect to the shares or units of which the notice of exercise of the right of rescission was given. *New*. Reimbursement

130. Unless otherwise provided in this Part, an action to enforce a right created by this Part may be commenced only within one year after the date knowledge of facts that gave rise to the action first came to the attention of the plaintiff or ought reasonably to have come to his attention. *New*. Limitation period for actions

PART XXII

GENERAL PROVISIONS

131. A statement as to, Admissibility in evidence of certified statements

(*a*) the registration or non-registration of any person or company;

(*b*) the filing or non-filing of any document or material required or permitted to be filed;

(*c*) any other matter pertaining to such registration, non-registration, filing or non-filing, or to any such person, company, document or material; or

(*d*) the date the facts upon which any proceedings are to be based first came to the knowledge of the Commission,

purporting to be certified by the Commission or a member thereof or by the Director is, without proof of the office or signature of the person certifying, admissible in evidence,

so far as relevant, for all purposes in any action, proceeding or prosecution. R.S.O. 1970, c. 426, s. 148, *amended*.

Immunity of Commission and officers

132. No action or other proceeding for damages shall be instituted against the Commission or any member thereof, or any officer, servant or agent of the Commission for any act done in good faith in the performance or intended performance of any duty or in the exercise or the intended exercise of any power under this Act or a regulation, or for any neglect or default in the performance or exercise in good faith of such duty or power. R.S.O. 1970, c. 426, s. 145 (1), *amended*.

Regulations

133. The Lieutenant Governor in Council may make regulations,

1. prescribing categories for persons and companies and the manner of allocating persons and companies to categories, and prescribing the form and content of prospectuses and statements of material facts to be filed by, and financial conditions applicable to, persons and companies in accordance with their categories;

2. prescribing the form and content of financial statements and interim financial statements required to be filed under this Act;

3. prescribing requirements respecting applications for registration and renewal of registration, and providing for the expiration of registrations;

4. classifying registrants into categories and prescribing the terms and conditions of registration of registrants in each category but no registrant shall be included in a category designated as,

    i. investment dealer, unless he is a member of the Ontario District of the Investment Dealers' Association of Canada,

    ii. broker, unless he is a member of a stock exchange in Ontario recognized by the Commission,

    iii. broker-dealer, unless he is a member of the Broker-Dealers' Association of Ontario;

5. regulating the listing and trading of securities and records relating thereto;

6. governing the furnishing of information to the public or to the Commission by a registrant in connection with securities or trades therein;

7. regulating the trading of securities other than on a stock exchange recognized by the Commission;

8. governing the keeping of accounts and records, the preparation and filing of financial statements of the affairs of the security issuers and the audit requirements with respect thereto;

9. respecting fees payable by an issuer to a management company as consideration for investment advice, alone or together with administrative or management services, provided by the management company to the mutual fund;

10. respecting sales charges imposed by a distribution company or contractural plan service company under a contractural plan on purchasers of shares or units of a mutual fund, and commissions to be paid to salesmen of shares or units of a mutual fund;

11. designating any person or company or any class of persons or companies that shall not be required to obtain registration as an adviser;

12. prescribing the fees payable to the Commission including fees for filing, fees upon applications for registration, fees in respect of audits made by the Commission and other fees in connection with the administration of this Act and the regulations;

13. prescribing the documents, certificates, reports, releases, statements, agreements and other information and the form, content and other particulars relating thereto that are required to be filed, furnished or delivered under this Act and the regulations;

14. prescribing the practice and procedure of investigations under sections 10 and 12;

15. prescribing the forms for use under this Act and the regulations;

16. prescribing trades or securities, in addition to the trades and securities referred to in section 34 in respect of which registration shall not be required;

17. prescribing trades or securities, referred to in section 34 in respect of which there shall cease to be exemption from registration;

18. prescribing trades or securities, in addition to the trades and securities referred to in sections 70 and 71, in respect of which section 52 does not apply;

19. prescribing terms and conditions that shall be contained in an escrow or pooling agreement with respect to securities issued for a consideration other than cash;

20. prescribing the practice and procedure by which the Commission recognizes exempt purchasers under paragraph 3 of subsection 1 of section 34;

21. prescribing the information required or permitted to be distributed under subsection 2 of section 64;

22. respecting the matters referred to in clause *h* of subsection 2 of section 60, and, without limiting the generality of the foregoing, pertaining to requirements as to paid-up capital and surplus, liquidity of assets, ratios of debt to paid-up capital and surplus, audit procedures, the furnishing of interim financial statements and the provisions of trust indentures and the qualifications, rights, duties and obligations of trustees thereunder;

23. respecting the content and distribution of written, printed or visual material and advertising that may be distributed or used by a person or company with respect to a security whether in the course of distribution or otherwise;

24. prescribing the form and content of the reports to be filed under Part XIX;

25. respecting any other matter necessary or advisable to carry out effectively the intent and purpose of Part XIX;

26. prescribing the form and content of a take-over bid circular and a directors' circular required by Part XVIII;

27. prescribing a penalty for the early redemption of shares or units of a mutual fund;

28. prescribing the form and content of an information circular. R.S.O. 1970, c. 426, s. 147; 1971, c. 31, s. 46, *amended*.

134. Upon the application of a person or company, the Commission may exempt, subject to such terms and conditions as it may impose, the person or company from any requirement of the regulations where in its opinion it would not be prejudicial to the public interest to do so. *New*. Exemptions

135. Every registration made and receipt for a prospectus issued under *The Securities Act*, being chapter 426 of the Revised Statutes of Ontario, 1970 and in effect immediately before this Act comes into force, continues in the same manner as if made or issued under this Act. *New*. Continuation of registration

136. The following are repealed: Repeal

1. *The Securities Act*, being chapter 426 of the Revised Statutes of Ontario, 1970.

2. *The Securities Amendment Act, 1971*, being chapter 31.

3. *The Securities Amendment Act, 1973*, being chapter 11.

4. Section 55 of *The Government Reorganization Act, 1972*, being chapter 1.

137. This Act comes into force on a day to be named by proclamation of the Lieutenant Governor. Commencement

138. This Act may be cited as *The Securities Act, 1974*. Short title

BILL 75

The Securities Act, 1974

1st Reading

June 7th, 1974

2nd Reading

3rd Reading

THE HON. J. T. CLEMENT
Minister of Consumer and
Commercial Relations

(*Government Bill*)

1974